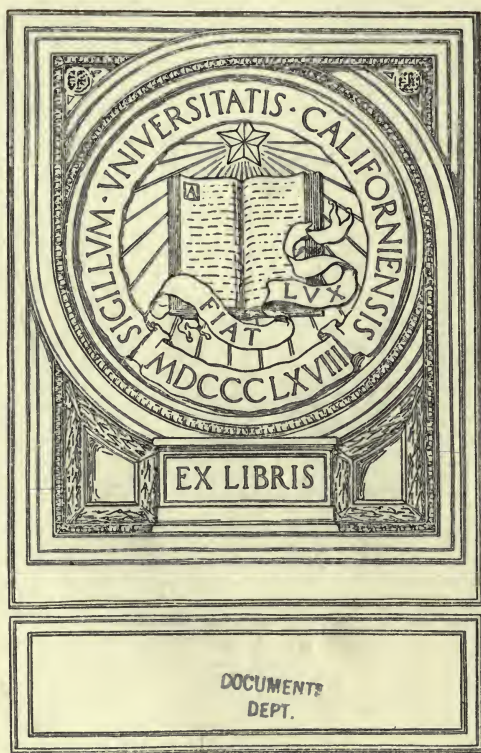


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JOURNAL

OF THE

PROCEEDINGS
OF THE

Missouri State Convention,

HELD AT THE

CITY OF ST. LOUIS,

OCTOBER, 1861.



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JOURNAL

OF THE

MISSOURI STATE CONVENTION,

Held at the City of St. Louis, October, 1861.

FIRST DAY.

THURSDAY MORNING, October 10, 1861.

The Convention convened in the Mercantile Library Hall at 11 o'clock A. M., in pursuance of the following Proclamation by his Excellency, Hamilton R. Gamble, Governor of the State of Missouri :

“The exigencies of the State require in my judgment the re-assembling of the State Convention; Therefore, I, Hamilton R. Gamble, Governor of the State of Missouri, by virtue of the power vested in me by the Convention, do hereby call the Convention of the State to assemble at the Mercantile Library Hall in the city of St. Louis, on the 10th day of October next, to adopt such measures as the welfare of the State may require.

“Given under my hand and the seal of the State at Jefferson City, this 21st day of September, A. D. 1861.

[Signed,]

By the Governor, H. R. GAMBLE.

M. OLIVER, *Secretary of State.*”

The roll was called, when the following named persons answered to their names :

Messrs. Breckinridge, Broadhead, Bridge, Bush, Douglass, Gravelly, Hall of Buchanan, Hendricks, Hitchcock, Holmes, How, Howell, Hudgens, Isbell, Jackson, Johnson, Leeper, Linton, Long, Marvin, McCormack, McDowell, Meyer, Orr, Phillips, Pipkin, Pomeroy, Rowland, Shackelford of St. Louis, Smith of L., Smith of St. Louis, Turner, Welch, Woolfolk, and Zimmerman.

There being no quorum present, on motion of Mr. Broadhead, the Convention adjourned until 3 o'clock.

EVENING SESSION.

The Convention met pursuant to adjournment.

The roll was called, when the following additional members answered to their names, viz : Messrs. Eitzen, Sayre, Stewart, Tindall, and Wright.

On motion of Mr. HALL of Buchanan, the Convention adjourned until to-morrow morning at 10 o'clock.

SECOND DAY.

FRIDAY MORNING, October 11, 1861.

The Convention met pursuant to adjournment, and was called to order by the President, Mr. Wilson.

The roll was called, when the following additional members answered to their names, viz:

Messrs. Allen, Gamble, Gantt, Hall of R., Henderson, Irwin, Jamison, Maupin, McFerran, Vanbuskirk, and Mr. President.

There being a quorum present, the proceedings of yesterday were read and approved.

The President laid before the Convention the following communication from the Governor, which was read, and on motion of Mr. Birch, was laid on the table and 200 copies ordered to be printed for the use of the Convention.

To the Convention of the State of Missouri:

In the exercise of the power which you have conferred upon me, I have called the body to assemble at this time, to consider and adopt such measures as the welfare of the State may require.

Although there is no constitutional requirement that I should communicate to you my views of the condition of the State, or recommend any measures for your adoption, yet there seems to be a propriety in my stating the reasons for calling you together at this time.

You need not be informed by me that, throughout the length and breadth of the State, there is now existing a civil war that threatens the destruction of all government, and strikes at the very foundations of society. You are acquainted already with the situation of affairs in our State.

The obligations which rest upon the chief executive to preserve order and peace in the community, to enforce the laws, and to suppress, by force, all combinations against the State, require that more efficient mea-

asures for the organization of the military power of the State should be adopted than now exist. The act of 1859, which you revived at your last session, and made the law for the organization of volunteer forces, is found, upon trial, to be a most inefficient law in the present times, which require promptitude and energy.

It is therefore assigned as one of the principal reasons for calling the Convention, that you should adopt a military law more simple and more efficient than that now existing.

You are aware further, that the treasury of the State is empty. The Treasurer reported to me on the 24th of September last, that there was in the treasury \$21,422.73, which was subject to a deduction for coupons paid by the Bank of the State on the old debt, the amount of which coupons he had not ascertained. The whole of the sum thus reported in the treasury is, in all probability, already absorbed by the payment of the salaries of civil officers. At this time the Sheriffs in very many of the counties are resigning their offices, in order to avoid the duty of collecting the taxes, which is supposed to be impracticable.

Under these circumstances, it is apparently impossible to provide means by existing laws for the payment of the ordinary expenses of the government, and it is manifestly impossible to provide, by any system of taxation, for the extraordinary expenses of a military force.

That you might devise some scheme for raising the money, which is indispensably necessary to support troops, and to defray ordinary expenses, was another reason for calling you together.

Beyond these two reasons for the call, it is believed by many, and the opinion has been expressed to me, that the election for State officers, ordered at your last session,

to take place on the first Monday of November next, cannot be held, so as to obtain a fair expression of the public will. In the disturbed condition of the State, with many citizens absent from the State, with excitement existing throughout our whole limits, so that in some districts citizens entertaining one set of opinions would not be permitted to vote, while, in other sections, those holding opposite opinions would be denied the right of suffrage, it is obviously impossible to have a fair vote taken.

As I concur in the opinion thus expressed, this question of postponing the election is submitted to your consideration, without any reasoning on my part, in favor of the postponement.

It is proper for me, while calling your attention to this subject of the election, to remind you, that when I was chosen to fill my present position of Provisional Governor, I was chosen to exercise the executive functions until the first Monday of November; yet as the words of the ordinance are, "and until his successor shall be duly elected, and qualified," the effect of a postponement of the election will be to continue me in office for a longer period than was contemplated by the Convention when I was chosen, or by me when I accepted the office. It is proper, therefore, that you should, at this time, select a person to discharge the executive duties during the prolonged period that will elapse before an election can be held. In making such selection, you will remember, that you have the whole State from which to make the choice, without confining yourselves to the members of the Convention. It is not necessary that I remind you, that the only basis of a safe choice is the good of the people, without regard to personal predilections, or party relations. The motto on our State arms, "*Salus populi suprema lex esto*," furnished a safe guide in all our public action.

There are other matters upon which there is a desire among the people that you should act, but which, as they have no connection with the duties of the office I hold, and as they partake of the character of or-

dinary legislation, I forbear to mention in this communication.

H. R. GAMBLE.

Mr. BIRCH offered the following resolution, which was adopted:

Resolved, That Henry C. Warmoth is hereby appointed Doorkeeper of this Convention.

On motion of Mr. BRECKINRIDGE,

Resolved, That Joshua H. Alexander be appointed Assistant Sergeant-at-arms of this Convention.

Mr. TINDALL offered the following resolution:

Resolved, That the Governor's Message be referred to the Committee of Eight, appointed at the last session of this Convention, with instructions to report such measures for the action of the Convention as they may think proper.

Mr. McFERRAN offered the following as a substitute, which was adopted:

Resolved, That the following committees be appointed, to whom all appropriate matters shall be referred:

Of the Militia, to consist of five members.

Of Ways and Means, to consist of five members.

Of Civil Officers, to consist of five members.

Of Elections, to consist of five members.

Of Revenue, to consist of five members.

Messrs. Warmoth, doorkeeper, and Alexander, assistant sergeant-at-arms, came forward and were sworn into their respective offices by the Hon. S. M. Breckinridge, Judge of the St. Louis Circuit Court.

On motion of Mr. HALL of B., the Convention adjourned until three o'clock.

— EVENING SESSION.

The Convention met pursuant to adjournment.

The President announced the following named members as composing the committees constituted by the resolution of Mr. McFERRAN:

Militia—Messrs. Tindall, Gantt, Sayre, Henderson, and Hitchcock.

Ways and Means—Messrs. How, Birch, Howell, Hall of R., and Douglass.

Civil Officers—Messrs. McFerran, Phillips, Wright, Orr, and Broadhead.

Elections—Messrs. Hendricks, Marvin, Breckinridge, Hudgens, and Turner.

Revenue—Messrs. Hall of B., McCormack, Gravelly, Rowland, and Woolfolk.

Mr. LONG offered the following resolution, which was read, and on motion of Mr. Howell was referred to the Committee of Ways and Means :

Resolved, That the Committee of Ways and Means be instructed to report an ordinance or ordinances providing for the following objects :

1. The suspension of all sales of real estate under execution until otherwise ordered by this Convention.

2. The suspension of all courts, except for the transaction of criminal and county business, until otherwise directed by this Convention.

3. Authorizing a redemption of all real estate sold under deeds of trust within two years after the sale thereof.

Mr. WELCH offered the following resolution, which was referred to the same committee :

Be it Resolved by the Convention of the State of Missouri as follows :

First. The Auditor of the State is hereby directed and required not to allow, and the Treasurer of the State is hereby directed and required not to pay, from and after the passage of these resolutions, the salaries allowed by existing laws of this State to the following named officers and agents, except as hereinafter provided, to wit :

1. The Board of Public Works.
2. The Superintendent of Common Schools.
3. The State Geologist.
4. The Officers of the State Lunatic Asylum.
5. The Officers of the Deaf and Dumb Asylum.
6. The Judges of the Circuit Court.

7. The Circuit Attorneys, except in the county of St. Louis.

8. The Bank Commissioner and Assistant Bank Commissioner.

Second. Be it further Resolved, That the suspension of the salaries, designated and provided for in the foregoing resolution, shall continue until the duties of the said several offices shall have been fully resumed, and until payment thereof shall be directed by the Provisional Governor appointed by this Convention, or his successor, duly elected by the qualified voters of this State, and such payment shall be from the time so designated and not before.

Third. Be it further Resolved, That the Secretary of this Convention furnish to the State Auditor and Treasurer each with a duly certified copy of these resolutions.

Mr. McDOWELL offered the following, which was read and referred to the Committee on Elections :

Resolved, That the Committee on Elections report an ordinance postponing the election for Governor, Lieutenant-Governor, Secretary of State, and Members of the General Assembly, until the first Monday in August, 1862.

Mr. STEWART offered the following, which was read and referred to the same committee :

Resolved, That the Committee on Elections be instructed to report a bill requiring all voters to take an oath to support the Constitution of the United States and of the State of Missouri.

Mr. HITCHCOCK offered the following resolution :

Resolved, That the Committee on Ways and Means be instructed to consider the expediency of action by the Convention for the purpose of confiscating the property of all persons, citizens or residents of this State, who shall, at the expiration of a reasonable time, be found employed in aiding or abetting the rebellion now on foot within its borders, and for the application of the property so confiscated ; first, to the reimbursement of loyal citizens of

this State for losses sustained by them in supporting the National and State Governments; and, secondly, to the use of the State. And that they report by ordinance or otherwise.

Mr. HOWELL moved to reject the resolution, and upon his motion called the ayes and noes, which motion was decided in the negative by the following vote:

AYES—Messrs. Allen, Birch, Bridge, Hall of R., Howell, Hudgens, Jamison, Long, Marvin, McFerran, Phillips, Pipkin, Pomeroy, Rowland, Sayre, Shackelford of St. Louis, Welch, Woolfolk, Wright, Vanbuskirk, Zimmerman, and Mr. President—22.

NOES—Messrs. Breckinridge, Broadhead, Bush, Douglass, Eitzen, Gantt, Gravelly, Hall of B., Henderson, Hendricks, Hitchcock, Holmes, How, Irwin, Isbell, Jackson, Johnson, Leeper, Linton, Maupin, McDowell, Meyer, Orr, Smith of L., Smith of St. L., Stewart, Tindall, and Turner—28.

The resolution was referred to the Committee on Ways and Means.

Mr. HOWELL asked to be, and was, excused from serving on the Committee of Ways and Means.

Mr. IRWIN was thereupon appointed upon said committee.

Mr. BRECKINRIDGE offered the following, which was adopted:

Resolved, That the Clergymen of this city, who are loyal to the Government of the United States, be requested to attend the meetings of this Convention, and open the same with prayer.

Mr. PHILLIPS offered the following resolution:

Resolved, That all resolutions hereafter introduced be referred to the appropriate committee.

Mr. BIRCH offered the following amendment:

Strike out all after the word "Resolved," and insert, "That the present and prospective condition of the country demand the postponement of our election; the abrogation of all useless offices; the reduction of all official salaries; the postponement of all coercive measures for the collection of debts and taxes; that the sword of the State be strengthened through the credit of the State and that the fidelity and loyalty of all its officers be secured by the most unquestionable guarantees.

On motion of Mr. WELCH, the further consideration of the resolution and amendment was postponed for the present.

Mr. McFERRAN offered the following resolution, which was adopted:

Resolved, That so much of the Governor's Message as relates to military affairs and the army be referred to the Committee of the Militia; that so much of the Governor's Message as refers to the finances of the State be referred to the Committee of Ways and Means; that so much of the Governor's message as relates to the election of State officers be referred to the Committee of Elections.

On motion of Mr. WRIGHT, the Convention adjourned until ten o'clock to-morrow morning.

THIRD DAY.

SATURDAY MORNING, October 12, 1861.

The Convention met pursuant to adjournment, and was opened with prayer, by the Rev. Dr. Nelson.

The Journal of the proceedings of yesterday was read and approved.

Messrs. NOELL and BOGY, Delegates to the Convention, appeared and took their seats as members of the body.

Mr. HUDGENS asked to be, and was, excused from serving upon the Committee of Elections.

Mr. HENDRICKS, from the Committee on Elections, made the following report, which was read, and, upon motion, was laid on the table, and two hundred copies ordered to be printed.

The Committee on Elections beg leave to report the following ordinance for the action of the Convention, and recommend the passage thereof.

HENDRICK, *Chairman*.

AN ORDINANCE PROVIDING FOR CHANGING THE TIME OF HOLDING CERTAIN ELECTIONS.

WHEREAS this Convention did, during its sessions at Jefferson city, on the 30th day of July, A. D. 1861, adopt "An ordinance providing for the election of certain State officers," and also "An ordinance providing for submitting its action to the people of the State of Missouri, and appointing a time therefor";

AND WHEREAS it is manifest, that, by reason of the disturbed condition of the State, it will be impossible at the time so appointed to elicit a fair expression of the popular will: Therefore,

Be it ordained by the People of the State of Missouri in Convention assembled, as follows, to wit:

First. That so much of an ordinance entitled "An ordinance providing for certain amendments to the Constitution, (adopted

on the 30th day of July, A. D. 1861,) as provides for the election of a Governor, Lieutenant Governor, Secretary of State, and Members of the General Assembly, on the first Monday of November, A. D. 1861," and so much of an ordinance entitled "An ordinance for submitting the action of this Convention to a vote of the people of Missouri, (adopted on the same day,) as provides for submitting the action of this Convention to a vote of the people on the first Monday of November, A. D. 1861," be and the same are hereby so modified, that said elections shall not be held on the day therein named, but instead thereof shall be held on the first Monday of August, A. D. 1862.

Second. Said elections shall in all other respects be held, and the returns thereof made, as provided in the ordinances heretofore adopted by this Convention.

Third. The Governor, Lieutenant Governor, and Secretary of State, heretofore appointed by this Convention, shall discharge the duties and exercise the powers which pertain to their respective offices, and continue in office until the first Monday of August, A. D. 1862, and until their successors are duly elected and qualified, or until the qualified voters of the State shall disapprove the action of this Convention.

After considering the amendment of Mr. Birch to the resolution offered by Mr. Phillips, on motion of Mr. GANTT, the Convention adjourned until 3 o'clock P. M.

EVENING SESSION.

On motion of Mr. TURNER, the consideration of the question was passed over; when

Mr. MEYER introduced the following ordinance, which was read and referred to the Committee on Civil Officers:

AN ORDINANCE CONCERNING THE REPEAL OF AN ACT OF THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, ENTITLED "AN ACT TO ESTABLISH A UNIFORM SYSTEM OF PUBLISHING NOTICES OF JUDICIAL SALES AND OTHER LEGAL NOTICES IN ST. LOUIS COUNTY, STATE OF MISSOURI."

Be it ordained by the People of Missouri in Convention assembled, as follows:

An act of the General Assembly of the State of Missouri, approved March 5th, 1861, entitled "An act to establish a uniform system of publishing notices of judi-

cial sales and other legal notices in St. Louis county, State of Missouri," is hereby repealed, and declared of no validity whatever.

On motion of Mr. HITCHCOCK, the resolution offered by Mr. Phillips and the amendment offered by Mr. Birch were referred to the appropriate committee.

On motion of Mr. HITCHCOCK, the Convention adjourned until Monday morning, at 10 o'clock.

FOURTH DAY.

MONDAY MORNING, Oct. 14, 1861.

The Convention met pursuant to adjournment, and was opened with prayer by the Rev. Mr. ELIOT.

The Journal of the proceedings of yesterday was read and approved.

Mr. ZIMMERMAN offered the following resolution, which was read and referred to the Committee of Ways and Means:

Resolved, That all Courts in the State of Missouri who refuse to discharge their duties shall receive no pay during the absence of such courts, and that the limitation act shall cease during the absence of such courts; and that creditors on judgments, executions, bonds, notes, and accounts, shall be entitled to the rate of interest agreed upon by creditors and debtors, not exceeding ten per cent., during the absence of said courts. And when there is no agreement between creditor and debtor respecting interest, all demands, including accounts, shall draw six per cent. per annum.

On motion of Mr. HITCHCOCK, the Convention proceeded to consider the report submitted by the Committee on Elections.

Mr. BRECKINRIDGE offered the following amendment to the ordinance reported by said committee:

Amend by inserting after the word "elections," occurring in the first line of the second section, the following words: "and all other elections held previous thereto."

The amendment was agreed to.

Mr. ALLEN offered the following amendment to the ordinance, which was disagreed to:

Strike out all the last part of the third section after the (first) word, "qualified," in the fourth line.

Mr. MCFERRAN offered the following amendment:

Strike out section one, and insert the following: "1. That so much of an ordinance entitled 'An ordinance providing for certain amendments to the Constitution, (adopted on the 30th day of July, 1861,) as provides for the election of Governor, Lieutenant Governor, Secretary of State, and Members of the General Assembly, on the first Monday of November, 1861,' be and the same is so modified that said elections shall not be held on the day therein named, but instead thereof shall be held on the first Monday of August, eighteen hundred and sixty-two; and the ordinance entitled 'An ordinance submitting the action of this Convention to a vote of the people of

Missouri? be and the same is hereby repealed."

On motion, the ordinance and amendment were recommitted to the committee.

Messrs. Vanbuskirk and Holmes were added to the Committee on Accounts.

On motion of Mr. STEWART, the Convention adjourned until 3 o'clock P. M.

— EVENING SESSION.

The hour of meeting of the Convention having arrived, and the President and Vice President being absent, the Convention was called to order by the Lieutenant Governor of the State, Mr. Hall of B.

Mr. McFERRAN, from the Committee on Civil Officers, made the following report, and on his motion laid on the table, and 200 copies ordered to be printed.

"The Committee on Civil Officers beg leave to report the following ordinance for the action of the Convention, and recommend the passage thereof.

McFERRAN, *Chairman.*"

AN ORDINANCE PROVIDING FOR ABOLISHING CERTAIN OFFICES, REDUCING SALARIES, AND TESTING THE LOYALTY OF CIVIL OFFICERS IN THIS STATE.

Be it ordained by the People of the State of Missouri in Convention assembled, as follows:

First. That the Board of Public Works be and is hereby abolished, and the offices and pay of the members of said Board shall cease and determine from and after the passage of this ordinance.

Second. That the office of State Superintendent of Common Schools be and is hereby abolished, and the pay of said officer shall cease and determine from and after the passage of this ordinance, and the duties pertaining to said office shall be discharged by the Secretary of State.

Third. The offices of County School Commissioner be and is hereby abolished in all the counties of this State, and the pay of said officers shall cease and determine from and after the passage of this ordinance; and the Clerks of the respective County Courts shall discharge all the duties of

Common School Commissioner in their respective counties except visiting and lecturing in the schools.

Fourth. That the offices of State Geologist and Assistant State Geologist be and are hereby abolished, and the pay of said officers shall cease and determine from and after the passage of this ordinance.

Fifth. That the salaries of all civil officers in this State be and are hereby reduced 20 per cent. during the year ending 30th September, 1862; and said per centage shall be deducted from the amount of said salaries, and withheld from said officers from and after the passage of this ordinance, until the said thirtieth day of September, A. D. 1862.

Sixth. That each civil officer in this State shall, within forty days after the passage of this ordinance, take and subscribe an oath to support the Constitution of the United States and this State; that he will not take up arms against the Government of the United States, nor the Provisional Government of this State, nor give aid or comfort to the enemies of either during the present civil war; that said oath, duly subscribed and sworn to, shall, within the forty days aforesaid, be filed by county officers in the Clerk's office of their respective counties; and all other officers shall, within the time aforesaid, file said oath, sworn to and subscribed as aforesaid, in the office of the Secretary of State. And the offices of all persons failing to file said oath, as herein provided, are hereby declared vacant; and the Secretary of State and respective County Clerks shall, immediately after the expiration of the forty days aforesaid, certify, under the seal of their respective offices, any vacancy that may exist under the operations of this ordinance, to the proper authorities under existing laws, and such authorities shall fill said offices by appointment for the residue of the term. And any civil officer who shall falsely take said oath, or wilfully violate the same, shall be deemed and adjudged guilty of perjury, and punished accordingly.

On motion of Mr. GANTT, the Convention adjourned until to-morrow morning, at 9 o'clock.

F I F T H D A Y .

TUESDAY MORNING, Oct. 15, 1861.

The Convention met pursuant to adjournment.

The Journal of the proceedings of yesterday was read and approved.

Mr. WELCH moved that the Committee on Accounts be instructed to audit and allow the mileage prescribed by law to members of the Convention from their respective places of residence to the city of St. Louis, by the route designated by law, the Convention having been called by the Governor to meet in said city.

Mr. McCORMACK offered the following resolution, which was read and referred to the Committee on Ways and Means :

Resolved, That the Governor be authorized to issue State revenue notes, to the amount of two million dollars, which said notes shall be accepted at par by all State officers, and in all transactions by the State. They shall be of the denominations of \$100, \$50, \$25, and \$10, and shall not bear interest, but they shall be received at any time the same as gold for all revenues of the State; and those notes which do not thus come back to the State in payment of taxes or for other revenues, shall, after three years from the date of their issue, be redeemed in gold on demand, on presentation of the same to the State Treasurer, or such agents as the Governor may appoint for this purpose. Any and every such revenue note coming back to the Government of the State in the shape of some revenue, shall be cancelled in some manner, and not be issued a second time.

Mr. HENDRICKS, from the Committee on Elections, to whom was recommitted the report of said committee, together with the amendment offered by Mr. McFerran, reported the same back as originally amended by the Convention, and recommended

its adoption and the rejection of the amendment.

Mr. TURNER, from the same Committee, made a minority report in favor of the adoption of the report as amended by Mr. McFerran.

On motion of Mr. WELCH, the Convention proceeded to the consideration of the majority and minority reports of the Committee on Elections.

Mr. HALL of B. called for the previous question. The question being, "Shall the main question be now put?" was decided in the affirmative.

The amendment of Mr. McFERRAN was disagreed to and the majority report agreed to, and the ordinance adopted by the following vote, the ayes and noes being called for by Mr. Sayre :

AYES—Messrs. Allen, Birch, Bogy, Breckinridge, Broadhead, Bridge, Bush, Douglass, Eitzen, Gantt, Gravelly, Hall of R., Henderson, Hendricks, Hitchcock, Holmes, How, Howell, Irwin, Isbell, Jackson, Jamison, Johnson, Leeper, Linton, Long, Marvin, Maupin, McCormack, McDowell, McFerran, Meyer, Noell, Orr, Phillips, Pipkin, Pomeroy, Rowland, Shackelford of St. L., Smith of L., Smith of St. Louis, Stewart, Tindall, Turner, Welch, Woolfolk, Vanbuskirk, Zimmerman, and Mr. President—49.

NOES—Mr. Sayre—1.

Excused from voting—Mr. Hall of B.

Mr. BRECKINRIDGE presented a petition from the Presidents of the Railroads of this State, praying for the repeal of an act passed by the last General Assembly, entitled "An Act in relation to the transportation of freight and passengers on the several railroads in this State;" which was referred to the Committee of Ways and Means.

Mr. TINDALL, from the Committee on the Militia, made a report, which was laid on

the table, 200 copies ordered to be printed, and made the special order for to-morrow at 10 o'clock.

On motion of Mr. HALL of R., the Convention adjourned until 3 o'clock P. M.

— EVENING SESSION.

The Convention met pursuant to adjournment.

Mr. WRIGHT asked and obtained leave to record his vote in the negative upon the adoption of the "ordinance providing a change of the time of holding certain elections."

The Convention proceeded to the consideration of the report of the Committee on Civil Officers, when

Mr. McFERRAN offered the following amendment to the "ordinance providing for abolishing certain offices, reducing the salaries, and testing the loyalty of civil officers in this State:"

Amend by adding a new section as follows:

"*Seventh.* The respective county court clerks in this State shall take and subscribe the oath provided in this ordinance, and file the same in the office of the Secretary of State within the forty days aforesaid; and if any county court clerk shall fail to file said oath, duly subscribed and sworn to as aforesaid, his office is hereby declared vacant, and such vacancy shall be filled by the authorities under existing laws; and in such case, the other county officers of such county shall comply with the requirements of this ordinance within twenty days after said vacancy shall be filled under the provisions of this ordinance."

Mr. BROADHEAD offered the following amendment to the amendment:

Strike out the sixth section of the ordinance, and insert:

Sixth. That the offices of the Judges of the Supreme Court, Judges of the Circuit Courts, Probate Judges, sheriffs and clerks, and the clerks of the several courts of record of this State, and Recorders of Deeds,

Register of Lands, Auditor of Public Accounts, State Treasurer, and Attorney General, be and the same are hereby declared vacant; and the Governor of the State is hereby authorized to fill the vacancies so created in the offices of the Judges of the Supreme Court, Judges of the Circuit and Probate Courts, Register of Lands, Auditor of Public Accounts, State Treasurer, and Attorney General, by appointment of suitable persons to such offices.

Seventh. The Judges of the Supreme Court thus appointed shall have power to appoint a clerk for said court, and the Judges of the Circuit Courts shall have power to appoint clerks for their respective courts, recorders of deeds, and sheriffs of the counties within their respective circuits.

Eighth. The officers to be appointed by the provisions of this ordinance shall hold their respective offices until the expiration of the period for which the present incumbents of said offices have been elected, and until their successors are elected and qualified.

Ninth. The present incumbents of all other civil offices in the State, except the Governor, Lieutenant Governor and Secretary of State, shall within sixty days from the passage of this ordinance take and subscribe, and file in the office of the clerk of the courts of the respective counties in which said incumbents reside, an affidavit to support the Constitution of the United States and of this State; that he will not take up arms against the Government of the United States, nor the provisional government of this State, nor give aid or comfort to the enemies of either, and that he will maintain and support the provisional government established by the State Convention of Missouri. And the offices of all persons failing to file said oath as herein provided, are hereby declared vacant; and upon the certificate of the clerks of the circuit court of the respective counties where such offices may exist, to the effect that persons have failed to file such affidavits, the Governor of the State shall proceed to fill such vacancies by appointment.

Mr. WRIGHT moved to lay the amendments and ordinance on the table, and to print 200 copies of the amendment for the use of the Convention, and to make it the special order for to-morrow morning at 10 o'clock; which motion was decided in the negative by the following vote—the ayes and noes called for by Mr. Wright:

AYES—Messrs. Douglass, Howell, Jamison, Pipkin, Welch, Wright and Vanbuskirk—7.

NOES—Messrs. Allen, Birch, Bogy, Breckinridge, Broadhead, Bridge, Bush, Eitzen, Gantt, Gravelly, Hall of B., Hall of R., Henderson, Hendricks, Hitchcock, Holmes, How, Irwin, Isbell, Jackson, Johnson, Leeper, Linton, Long, Marvin, Maupin, McCormack, McDowell, McFerran, Meyer, Noell, Orr, Phillips, Pomeroy, Rowland, Shackleford of St. Louis, Smith of L., Smith of St. Louis, Stewart, Tindall, Turner, Woolfolk, Zimmerman, and Mr. President—44.

The amendment offered by Mr. Broadhead was then disagreed to by the following vote—the ayes and noes called for by Mr. Pipkin:

AYES—Messrs. Broadhead, Gantt, Henderson, How, Isbell, Johnson, Leeper, Maupin, Meyer, and Turner—10.

NOES—Messrs. Allen, Birch, Bogy, Breckinridge, Bridge, Bush, Douglass, Eitzen, Gravelly, Hall of B., Hall of R., Hendricks, Hitchcock, Holmes, Howell, Irwin, Jackson, Jamison, Linton, Long, Marvin, McCormack, McDowell, McFerran, Noell, Orr, Phillips, Pipkin, Pomeroy, Rowland, Smith of L., Smith of St. L., Stewart, Tindall, Welch, Woolfolk, Wright, Vanbuskirk, Zimmerman, and Mr. President—40.

The amendment of Mr. McFERRAN was then agreed to by the following vote—the ayes and noes called for by Mr. Welch:

AYES—Messrs. Allen, Birch, Bogy, Breckinridge, Broadhead, Bridge, Bush, Douglass, Gantt, Gravelly, Hall of B., Henderson, Hendricks, Hitchcock, Holmes, How, Irwin, Jackson, Jamison, Johnson, Linton, Long, Marvin, McCormack, McDowell, McFerran, Orr, Phillips, Smith of L., Smith of St. L., Stewart, Tindall, Woolfolk, Wright, and Zimmerman—36.

NOES—Messrs. Hall of R., Howell, Isbell, Leeper, Maupin, Meyer, Noell, Pipkin, Pomeroy, Rowland, Turner, Welch, Vanbuskirk, and Mr. President—14.

On motion of Mr. BOG, the Convention adjourned until to-morrow morning at ten o'clock.

SIXTH DAY.

WEDNESDAY MORNING, October 16, 1861.

The Convention met pursuant to adjournment, and was opened with prayer by the Rev. Mr. PORTER.

The Journal of the proceedings of yesterday was read and approved.

Mr. WELCH offered the following resolutions:

Be it Resolved by the Convention of the State of Missouri, as follows:

First. That the certificates of pay of the members and officers of this Convention, signed by the President and attested by the Secretary of said Convention, shall be received by the various collectors of this State in payment of all taxes and dues,

due or to become due to the State, and the Auditor and Treasurer of the State shall pass upon and allow the amount so paid by said collectors on said certificates as so much money paid by said collectors.

Second. That nothing in the foregoing resolution shall be construed to prevent said certificates from being presented directly to the Auditor and Treasurer of State for allowance and payment, but said certificates shall be audited and paid by said officers upon presentation, out of any money in the treasury not otherwise appropriated.

Third. Said certificates shall be assignable by the endorsement of the name of the

member or officer to whom the same shall be due and payable, and said certificate so endorsed shall entitle the holder to all the rights which the original holder or owner might have under these resolutions, and the same shall be allowed and paid to said holder in all respects as if he were the party to whom the same were originally due.

Which were adopted by the following vote, the ayes and noes having been called by Mr. Pipkin :

AYES—Messrs. Allen, Birch, Bogy, Breckinridge, Broadhead, Bridge, Bush, Eitzen, Foster, Gantt, Gravelly, Hall of B., Hall of R., Henderson, Hendricks, Holmes, Howell, Irwin, Isbell, Jackson, Jamison, Johnson, Leeper, Linton, Long, Marvin, Maupin, McDowell, McFerran, Meyer, Noell, Orr, Pomeroy, Rowland, Shackelford of St. L., Smith of L., Smith of St. L., Tindall, Turner, Welch, Vanbuskirk, and Zimmerman—42.

NOES—Messrs. Douglass, Hitchcock, How, McCormack, Phillips, Pipkin, Sayre, Woolfolk, and Mr. President—9.

The Convention resumed the consideration of the ordinance reported by Mr. McFERRAN from the Committee on Civil Officers.

Mr. LONG offered the following amendment, which was agreed to :

“Amend the 3d section by inserting the words ‘St. Louis county excepted’ after the word ‘State,’ in the second line.”

Mr. McFERRAN offered the following amendment :

Amend, by way of new section, as follows :

Eighth. Any person whatsoever who may take and subscribe the oath provided by this ordinance, and file the same in the office of the Secretary of State, or any County Clerk’s office in this State, within ten days after receiving notice of the passage of this ordinance, being within forty days of the passage thereof, shall be exempt from arrest or punishment for offences previously committed by taking up arms against the Provisional Government of this State, or giving aid or comfort to its enemies in the present civil war, subject to the penalties of perjury as provided in this ordinance ; and it shall be the duty of

the Secretary of State and respective County Clerks to make out and deliver to persons filing such oath a certificate of the fact under their respective seals of office, which certificate shall be *prima facie* evidence in all courts and to all persons that the person named therein has complied with and claims the benefit of this ordinance. And the Governor of this State is hereby directed to furnish a copy of this ordinance to the President of the United States immediately, and request him in the name of the people of Missouri, by proclamation, to exempt all persons taking said oath under this ordinance from all penalties they may have incurred by taking up arms against the United States, or giving aid or comfort to its enemies in the present civil war.

The amendment was agreed to.

Mr. BROADHEAD offered the following amendment to the ordinance :

Amend by inserting after the word “State,” occurring in the first line of the 5th section, the following : “So far as the same are paid out of the State Treasury.”

Mr. GANTT proposed to amend the amendment by adding, as follows : “or made a burden on the county treasuries by State legislation.”

Which was agreed to by the following vote—the ayes and noes called for by Mr. GANTT :

AYES—Messrs. Allen, Birch, Bogy, Breckinridge, Bush, Douglass, Foster, Gantt, Hall of B., Hall of R., Henderson, Hendricks, Holmes, Irwin, Jackson, Linton, Long Marvin, McCormack, McDowell, McFerran, Meyer, Morrow, Noell, Pomeroy, Rowland, Shackelford of St. L., Smith of L., Smith of St. L., Stewart, Turner, Woolfolk, Zimmerman, and Mr. President—34.

NOES—Messrs. Broadhead, Bridge, Eitzen, Gravelly, Hitchcock, How, Howell, Isbell, Jamison, Leeper, Maupin, Orr, Phillips, Pipkin, Sayre, Tindall, Welch, and Vanbuskirk—18.

The amendment of Mr. BROADHEAD, as thus amended, was then agreed to.

Mr. BIRCH offered the following amendment :

Amend, by adding after the word “salaries,” in the first and third line of the fifth

section, the words "and fees;" which was disagreed to.

Mr. McFERRAN offered the following amendment, which was agreed to :

Amend by striking out the words "forty days," wherever they occur in sections six, seven and eight, and insert instead thereof the words "sixty days."

Mr. POMEROY offered the following amendment, which was agreed to :

Amend the third section by adding as follows : "And that the fees of said clerks, respectively, for services herein contemplated shall in no case exceed the sum of fifty dollars per annum."

Mr. WELCH offered the following amendment :

Strike out sections one, two, three and four, and insert as follows : "*First.* The Auditor of the State is hereby directed and required not to audit or allow, and the Treasurer of the State is hereby directed and required not to pay, from and after the passage of these resolutions, the salaries allowed by existing laws of this State of the following named officers, except as herein-after provided, to wit :

1. The Board of Public Works.
2. The Superintendent of Common Schools.
3. The State Geologist and Assistant State Geologist.
4. The Officers of the State Lunatic Asylum.
5. The Officers of the Deaf and Dumb Asylum.
6. The Judges of the Circuit Court.
7. Circuit Attorneys, except in the county of St. Louis.
8. Bank Commissioner and Assistant Bank Commissioner.

"*Second.* Be it further Resolved, That the suspension of payment of salaries designated and provided for in the foregoing resolution shall continue until the duties of the several officers shall have been fully resumed, and until payment thereof shall be directed by the Provisional Governor appointed by this Convention, or his successor, duly elected by the qualified voters of

this State; and such payments shall be from the time so designated, and not before.

"*Third.* Be it further Resolved, That the Secretary of the Convention furnish to the Auditor and Treasurer, each, a duly certified copy of these resolutions."

On motion of Mr. GANTT, the amendment was laid on the table by the following vote, the ayes and noes being called for by Mr. WELCH :

AYES—Messrs. Allen, Birch, Breckinridge, Broadhead, Bridge, Bush, Douglass, Eitzen, Gantt, Gravelly, Hall of B., Hall of R., Henderson, Holmes, How, Irwin, Isbell, Jackson, Jamison, Johnson, Leeper, Linton, Long, Marvin, McCormack, McDowell, McFerran, Meyer, Noell, Orr, Phillips, Pomeroy, Rowland, Sayre, Shackelford of St. L., Smith of St. L., Stewart, Tindall, Turner, Woolfolk, Vanbuskirk, and Zimmerman—43.

NOES—Messrs. Foster, Hitchcock, Howell, Maupin, Morrow, Pipkin, Smith of L., Welch, and Mr. President—9.

Mr. HALL of B. moved the previous question, which was ordered; the question being, "shall the main question be now put?" it was decided in the affirmative by the following vote, the ayes and noes being called for by Mr. BROADHEAD :

AYES—Messrs. Allen, Birch, Breckinridge, Bridge, Foster, Gantt, Gravelly, Hall of B., Hall of R., Henderson, Hitchcock, Holmes, How, Irwin, Isbell, Jackson, Jamison, Johnson, Leeper, Linton, Long, Marvin, McCormack, McFerran, Meyer, Noell, Rowland, Sayre, Smith of L., Stewart, Tindall, Woolfolk, Vanbuskirk, Zimmerman, and Mr. President—35.

NOES—Messrs. Boggy, Broadhead, Bush, Douglass, Eitzen, Howell, McDowell, Orr, Phillips, Pipkin, Pomeroy, Shackelford of St. L., Smith of St. L., and Welch—14.

On motion of McCORMACK, the Convention adjourned until 3 o'clock P. M.

— EVENING SESSION.

The Convention met pursuant to adjournment.

The first and second sections of the ordinance providing for abolishing certain offices, &c., which was under consideration, were adopted.

The third section was adopted by the following vote, the ayes and noes being called for by Mr. McFERRAN :

AYES—Messrs. Allen, Birch, Bogy, Breckinridge, Bridge, Douglass, Eitzen, Foster, Gantt, Henderson, Holmes, Irwin, Leeper, Linton, Long, McCormack, McFerran, Meyer, Noell, Orr, Phillips, Pomeroy, Rowland, Smith of St. L., Stewart, Turner, and Zimmermann—27.

NOES—Messrs. Broadhead, Bush, Gravelly, Hall of B., Hall of R., Hendricks, Hitchcock, How, Howell, Jackson, Johnson, Marvin, Maupin, McDowell, Pipkin, Sayre, Shackelford of St. L., Smith of L., Tindall, Welch, Woolfolk, Vanbuskirk, and Mr. President—23.

The fourth section was adopted.

The fifth section was rejected by the following vote—the ayes and noes called for by Mr. Welch :

AYES—Messrs. Allen, Birch, Bogy, Breckinridge, Eitzen, Gantt, Gravelly, Henderson, Holmes, Isbell, Jackson, Leeper, Linton, Long, Marvin, McCormack, McFerran, Meyer, Morrow, Orr, Smith of St. L., Stewart, Turner, and Zimmerman—24.

NOES—Messrs. Broadhead, Bridge, Bush, Douglass, Foster, Hall of B., Hall of R., Hendricks, Hitchcock, How, Howell, Irwin, Jamison, Johnson, Maupin, McDowell, Noell, Phillips, Pipkin, Pomeroy, Rowland, Sayre, Shackelford of St. L., Smith of L., Tindall, Welch, Woolfolk, Vanbuskirk, and Mr. President—29.

The sixth section was then adopted by the following vote—the ayes and noes called for by Mr. McFerran :

AYES—Messrs. Allen, Birch, Bogy, Breckinridge, Bridge, Douglass, Eitzen, Foster, Gantt, Gravelly, Hall of B., Henderson, Hendricks, Hitchcock, Holmes, How, Irwin, Isbell, Jackson, Jamison, Johnson, Leeper, Linton, Long, McCormack, McDowell, McFerran, Meyer, Noell, Orr, Phillips, Pomeroy, Shackelford of St. L., Smith of St. L., Stewart, Vanbuskirk, and Zimmerman—37.

NOES—Messrs. Broadhead, Bush, Hall of R., Howell, Marvin, Maupin, Pipkin, Rowland, Sayre, Smith of Linn, Tindall, Turner, Welch, Woolfolk, and Mr. President—15.

The seventh section was then adopted, and also the eighth, by the following vote, the ayes and noes having been called for by Mr. McFerran :

AYES—Messrs. Allen, Birch, Bogy, Douglass, Gravelly, Hall of B., Hall of R., Hen-

derson, Hendricks, Howell, Jackson, Jamison, Long, Linton, McFerran, Morrow, Noell, Orr, Phillips, Pipkin, Pomeroy, Sayre, Shackelford of St. L., Smith of St. L., Welch, Woolfolk, Wright, Vanbuskirk, Zimmerman, and Mr. President—30.

NOES—Messrs. Breckinridge, Broadhead, Bridge, Bush, Eitzen, Foster, Gantt, Hitchcock, Holmes, How, Irwin, Isbell, Johnson, Leeper, Marvin, Maupin, McCormack, McDowell, Meyer, Rowland, Smith of Linn, Stewart, Tindall, and Turner—24.

Mr. McDOWELL moved the reconsideration of the vote rejecting the 5th section of the ordinance.

Mr. HALL of B. moved to lay the motion to reconsider on the table, which motion was decided in the negative by the following vote, the ayes and noes having been called for by McFerran :

AYES—Messrs. Broadhead, Bridge, Bush, Douglass, Hall of B., Hall of R., Hitchcock, How, Maupin, Morrow, Noell, Phillips, Pomeroy, Rowland, Sayre, Smith of Linn, Tindall, Turner, Vanbuskirk, and Mr. President—20.

NOES—Messrs. Allen, Birch, Bogy, Breckinridge, Eitzen, Foster, Gantt, Gravelly, Henderson, Hendricks, Holmes, Howell, Irwin, Isbell, Jackson, Jamison, Johnson, Leeper, Linton, Long, Marvin, McCormack, McDowell, McFerran, Meyer, Orr, Shackelford of St. L., Smith of St. L., Stewart, Woolfolk, and Zimmerman—31.

The motion to reconsider was then decided in the affirmative.

The question being on the adoption of the 5th section, it was decided in the affirmative by the following vote, the ayes and noes having been called by Mr. McFerran :

AYES—Messrs. Allen, Birch, Breckinridge, Eitzen, Foster, Gantt, Gravelly, Henderson, Hendricks, Holmes, Isbell, Jackson, Johnson, Leeper, Linton, Long, Marvin, McCormack, McDowell, McFerran, Meyer, Morrow, Orr, Pomeroy, Shackelford of St. L., Smith of St. L., Stewart, and Zimmermann—28.

NOES—Messrs. Bogy, Broadhead, Bridge, Bush, Douglass, Hall of B., Hall of R., Hitchcock, How, Hudgens, Irwin, Jamison, Maupin, Noell, Phillips, Rowland, Sayre, Smith of L., Tindall, Turner, Vanbuskirk, and Mr. President—22.

Excused from voting—Messrs. Howell, Pipkin, and Woolfolk.

Mr. HALL of R. gave notice that he would on tomorrow propose to amend the rules of

this Convention, so that no member shall speak more than five minutes on any question during the present session of the Convention.

On motion of Mr. GANTT, the Convention adjourned until 7 o'clock P. M.

NIGHT SESSION.

The Convention met pursuant to adjournment.

There being no quorum present, Mr. HOWELL moved a call of the House, which was ordered, and the absentees noted; when, on motion of Mr. BIRCH, all further proceedings under the call were dispensed with.

The Convention proceeded to the consideration of the following ordinance, reported to the Convention by Mr. TINDALL, chairman of the Committee on the Militia, and made the special order for this day at 10 o'clock:

AN ORDINANCE TO PROVIDE FOR THE ORGANIZATION AND GOVERNMENT OF THE MISSOURI STATE MILITIA.

Be it ordained by the people of the State of Missouri, in Convention assembled, as follows, to-wit:

First. All able-bodied free white male inhabitants of this State, between the ages of eighteen and forty-five years, shall be liable to military duty under this ordinance, and when enrolled shall constitute and be known and designated as the "Missouri State militia."

Second. When the Missouri State militia shall be called into the actual service of the State, the officers and men shall be subject to the same rules and regulations, and articles of war, that govern the armies of the United States.

ORGANIZATION.

Third. The commander-in-chief shall have power to call troops into actual service by volunteer enlistments, according to such regulations as he may prescribe.

Fourth. Troops shall be mustered into service by the inspector general or his assistants, in such manner as may be prescribed by the commander-in-chief, and

on entering the service all officers and men shall take the following oath, to be administered by the inspecting officer:

"You, each and every one of you, do solemnly swear that you will honestly and faithfully serve the State of Missouri against all her enemies, and that you will do your utmost to sustain the Constitution and Laws of the United States, and of this State, against all violence of whatsoever kind or description; and you do further swear that you will well and truly execute and obey the lawful orders of all officers properly placed over you, whilst on duty, so help you God."

Fifth. The State militia of Missouri shall be organized by companies into battalions, regiments, and brigades, in the manner prescribed in the rules and regulations for the government of the United States army, and when in actual service of the State shall receive the same pay and emoluments as the United States army; and any company, battalion or regiment mustered into the service of the State may at their option, at any time, be mustered into the service of the United States.

Sixth. Companies of infantry shall not contain less than sixty-four (64) men (including non-commissioned officers), nor more than one hundred.

Companies of cavalry shall contain not less than fifty men (including non-commissioned officers), nor more than eighty.

Companies of artillery shall not contain less than fifty, nor more than one hundred men.

Seventh. The commissioned officers of a company of infantry, cavalry or artillery, shall be one captain, one first and one second lieutenant, who shall be elected by the members of the company after being mustered into service; and any vacancy in such offices shall be filled by election in like manner.

Eighth. Captains of companies shall appoint the non-commissioned officers of their own companies.

REGIMENTS.

Ninth. A regiment shall consist of not less than eight, nor more than ten compa-

nies; the field officers of which shall consist of one colonel, one lieutenant colonel and one major.

BRIGADES.

Tenth. A brigade shall consist of not less than two nor more than five regiments, to be commanded by a brigadier general.

STAFF.

Eleventh. The Governor shall nominate, and by and with the advice of the Senate appoint, the following chiefs of staff department: One adjutant general, one inspector general, one quartermaster general, one commissary general, one surgeon general, one paymaster general—all with the rank of colonel of cavalry—each of whom shall perform the duties of his office in accordance with the rules and regulations of the United States army, or such other rules and regulations as may be prescribed by the commander-in-chief.

Twelfth. The quartermaster general and the commissary general shall, on receiving their appointments, execute and deliver to the State their bonds, each in the sum of twenty thousand dollars, (\$20,000,) with sureties, to be approved by the Governor, for the faithful performance of their duties, and the Governor shall require of all disbursing officers a bond in such amounts and with such securities as he may deem necessary for the faithful discharge of their duties.

Thirteenth. The commander-in-chief may also appoint and commission such number of aids-de-camp as may be necessary for the requirements of the service, with the rank of colonel.

Fourteenth. The commander-in-chief shall also, without the concurrence of the Senate, appoint and commission such other staff officers as may be necessary for the requirements of the service, and shall designate their rank in their respective commissions; and such officers shall perform such duties as are prescribed by the rules and regulations of the army of the United States, or such as may be prescribed by the commander-in-chief.

OFFICERS.

Fifteenth. The Governor shall nominate, and by and with the advice and consent of

the Senate appoint, one major general, and the necessary number of brigadier generals, colonels, lieutenant colonels, and majors of the line.

Sixteenth. Whenever, during the recess of the Senate, it shall be necessary to appoint to any military office of the line above the rank of captain, the Governor may appoint to such office, subject to the confirmation of the Senate at their next session thereafter.

Seventeenth. The major general commanding may nominate to the Governor for commission one assistant adjutant general, two aids-de-camp with the rank of lieutenant colonel; and the commander-in-chief may detail for duty on the staff of the major general commanding such other staff officers as the necessities of the service may require.

Eighteenth. Brigadier generals, when in actual command, may nominate to the Governor for commission, one acting assistant adjutant general, one aid-de-camp with the rank of major; and the commander-in-chief may detail such other staff officers for duty with the brigade as the necessities of the service may require.

Nineteenth. Colonels of regiments, when in actual command, shall nominate to the Governor for commission, one adjutant with the rank of captain; and the commander-in-chief may detail such other staff officers for regimental duty as the service requires. The colonel of each regiment shall select from his command well instructed and good soldiers to fill the posts of sergeant major, quartermaster sergeant, commissary sergeant and color sergeants, who will constitute the non-commissioned staff of the regiment, and be appointed by warrant given under the hand of the colonel.

Twentieth. Persons holding civil offices under this State, or civil military offices under the United States, may hold offices under this ordinance; and no civil office under this State shall be vacated by the acceptance of a military office under the United States.

UNIFORM.

Twenty-first. The commander-in-chief

shall prescribe the uniform to be worn by the Missouri militia.

Twenty-second. All officers, when on duty, shall wear the uniform of their rank.

COURTS MARTIAL.

Twenty-third. Courts martial shall be constituted, and shall proceed in all cases in the same manner, as is provided by law or regulation for the army of the United States.

Twenty-fourth. All contractors for supplies for the State militia shall be subject to trial by court martial for any fraud practiced in respect to such supplies, and shall, on conviction thereof, be punished with death or other punishment, at discretion of the court.

Twenty-fifth. Any officer of the State militia who shall be convicted by a court martial of wilfully defrauding the State in any matter of which he has official charge, or of conniving at any fraud practiced upon the State by others, shall suffer death or such other punishment as the court may inflict.

Twenty-sixth. The commander-in-chief shall have power to prescribe such rules and regulations for the government of the Missouri State militia as he may deem necessary.

Twenty-seventh. He may vacate the commission of any officer whom he may judge unfit for the service, and he shall have power to appoint military boards to report upon the qualifications of any officer commissioned or to be commissioned.

Twenty-eighth. The articles of war shall be published with this ordinance, with the verbal changes necessary to conform them to forces organized and serving under the authority of the State.

Twenty-ninth. Headquarters of the Missouri State militia shall be in St. Louis until removed by the commander-in-chief.

Thirtieth. No period of residence is required to admit persons to service in the Missouri State militia.

Thirty-first. All bodies of troops heretofore organized and mustered into the service of the State under the provisions of an ordinance entitled "An Ordinance con-

cerning the repeal and abrogation of certain laws, and for other purposes," heretofore adopted by this Convention, shall be continued in the service as (if) organized under this act. *Provided, however,* that the Governor may remove any officer now acting in the militia, in accordance with the provisions of the twenty-seventh section of this act; and may, at any time, vacate the commissions of such officers as are not authorized by this ordinance: *And provided also,* that all commissions now issued to third lieutenants of companies under the said recited act, are hereby vacated; and it shall be the duty of the commander-in-chief to authorize some member of the staff department, or some other agent whom he may appoint for that purpose, to proceed to such place in the State as may be necessary, and examine into the expenses incurred in the preliminary assembling and organization of companies, the procurement of arms, the furnishing of supplies, and other necessary expenses incurred in and about the organization of troops under the Governor's proclamation of the 24th of August last, and said agent or officer shall adjust such claims as may be prescribed to him, allowing such as may be deemed just, and rejecting those found to be unjust. He shall report his proceedings to the Governor, who, if he approve the same, shall so certify to the proper officer, who shall cause the claims or accounts so allowed to be paid; but such preliminary examination shall be unnecessary in any case where the Governor shall have such personal knowledge in regard to any such claims as to justify him in certifying it to the proper officer as hereinbefore provided.

Thirty-second. So much of the "Act to govern and regulate the volunteer militia of the State," approved, as aforesaid, by this Convention, as conflicts with the provisions of this ordinance, is hereby repealed; but all legal acts done, and proceedings properly had for the organization and support of the militia, under and by virtue of said act, shall be valid and binding as if authorized by this ordinance.

Thirty-third. This ordinance may be al-

tered, modified or repealed by the General Assembly of this State, in the same manner and with like effect as the ordinary legislation of the State may be altered, amended or repealed.

Mr. JACKSON asked and obtained leave to change his vote from aye to no, on the adoption of the eighth section of the "Ordinance for abolishing certain offices."

On leave of the Convention, Mr. BIRCH introduced the following ordinance, which was adopted :

AN ORDINANCE RESPECTING CERTAIN RECORDS
AND OTHER PROPERTY OF THE STATE.

Be it ordained by the People of the State of Missouri, in Convention assembled :

That it shall be the duty of the Board of Public Works, of the Commissioner of Common Schools, and of the Geologist and Assistant Geologist of the State, to transfer

and deliver the records, papers and other property of their respective offices to the Secretary of State, who shall preserve an inventory thereof in his office, and grant proper receipts therefor. The County School Commissioners shall in like manner deliver the records, papers, and other property of their respective offices to the clerks of their respective counties, who shall in like manner issue to them receipts for the same.

Mr. WOOLFOLK offered to amend the "Ordinance for organizing the militia," &c., as follows :

Strike out the words "or draft if necessary," in the third section; upon which motion, Mr. Stewart called for the ayes and noes. There being no quorum present,

On motion of Mr. HALL of B., the Convention adjourned until to-morrow morning at 9 o'clock.

SEVENTH DAY.

THURSDAY MORNING, October 17, 1861.

The Convention met pursuant to adjournment.

The Journal of the proceedings of yesterday was read and approved.

Mr. HALL of R. offered the following resolution :

Resolved, That no member be permitted to speak more than five minutes on any question before the Convention during the present session.

Mr. GANTT moved the previous question, which was ordered; the question being, "Shall the main question be now put?" it was carried, and the resolution declared adopted by the President; when,

Mr. WELCH called for a division of the vote, and called for the ayes and noes. The resolution was adopted by the following vote :

AYES—Messrs. Allen, Birch, Bogy, Breckinridge, Bridge, Bush, Foster, Gantt, Gravely, Hall of B., Hall of R., Henderson,

Hitchcock, Holmes, How, Howell, Irwin, Isbell, Jackson, Jamison, Johnson, Leeper, Linton, Long, Marvin, Maupin, McCormack, McDowell, McFerran, Meyer, Phillips, Pomeroy, Rowland, Shackelford of St. L., Smith of L., Smith of St. L., Stewart, Tindall, Woolfolk, Vanbuskirk, Zimmerman, and Mr. President—42.

NOES—Messrs. Douglass, Hendricks, Hudgens, Orr, Pipkin, Sayre, Turner, and Welch—8.

The Convention resumed the consideration of the amendment, offered by Mr. Woolfolk, to the third section of the "Ordinance for organizing the militia," &c., which was agreed to by the following vote, the ayes and noes having been called for by Mr. Stewart :

AYES—Messrs. Allen, Birch, Breckinridge, Douglass, Foster, Gravely, Hall of B., Hall of R., Henderson, Hitchcock, Howell, Hudgens, Irwin, Jackson, Jamison, Long, Marvin, Phillips, Pipkin, Pomeroy, Rowland, Sayre, Shackelford of St. L.,

Smith of L., Smith of St. L., Stewart, Tindall, Welch, Woolfolk, Vanbuskirk, Zimmerman, and Mr. President—32.

NOES—Messrs. Bogy, Bridge, Bush, Eitzen, Gantt, Hendricks, Holmes, How, Isbell, Johnson, Leeper, Linton, Maupin, McCormack, McDowell, McFerran, Meyer, Orr, and Turner—19.

Mr. ORR moved to amend by striking out sections fifteen and sixteen, and insert the following:

“Each company, or legal body, when formed and mustered into the service of the State, shall proceed to elect by ballot the officers provided for in this act; the candidate receiving the highest number of votes shall be commissioned by the Governor.

Mr. SMITH of L. moved to amend the amendment, by adding to the ninth section, after the word “major,” “who shall be elected by the commissioned officers of said companies;” which was disagreed to.

The original amendment was likewise disagreed to.

Mr. PHILLIPS offered the following amendment, which was adopted:

Amend the fourth section by inserting, immediately before the word “order;” occurring in the seventh line, the word “lawful.”

Mr. WELCH offered the following amendment, which was disagreed to:

Amend by striking out section two.

Mr. TINDALL offered the following amendment, which was agreed to:

Amend by adding the following at the end of section five: “And any company, battalion, or regiment, mustered into the service of the State may, at their option at any time, be mustered into the service of the United States.”

Mr. FOSTER offered the following amendment, which was disagreed to:

Amend by prefacing at the beginning of section nine: “A battalion shall consist of not less than two nor more than five companies, and shall be entitled to one major.”

Mr. TINDALL offered the following amendment to section thirty-one, which was agreed to:

“And it shall be the duty of the Commander-in-Chief to authorize some member of the staff department, or some other agent whom he may appoint for that purpose, to proceed to such place in the State as may be necessary, and examine into the expenses incurred in the preliminary assembling and organization of companies, the procurement of arms, the furnishing of supplies and other necessary expenses incurred in and about the organization of troops, under the Governor’s proclamation of the 24th August last; and said agent or officer shall adjust such claims as may be presented to him, allowing such as he may deem just and rejecting those found to be unjust. He shall report his proceedings to the Governor, who, if he approve the same, shall so certify to the proper officer, who shall cause the claims or accounts so allowed to be paid; but such preliminary examination shall be unnecessary in any case where the Governor shall have such personal knowledge in respect to any such claims as will justify him in certifying it to the proper officer for payment as hereinbefore provided for.”

The ordinance, as amended, was then adopted by the following vote—the ayes and noes called by Mr. PIPKIN:

AYES—Messrs. Allen, Birch, Bogy, Breckinridge, Broadhead, Bridge, Bush, Douglass, Eitzen, Foster, Gantt, Gravelly, Hall of B., Hall of R., Henderson, Hendricks, Hitchcock, Holmes, How, Irwin, Isbell, Jackson, Jamison, Johnson, Leeper, Long, Marvín, Maupin, McCormack, McDowell, McFerran, Meyer, Noell, Phillips, Pomeroy, Rowland, Shackelford of St. L., Stewart, Tindall, Turner, Vanbuskirk, Zimmerman, and Mr. President—43.

NOES—Messrs. Howell, Hudgens, Orr, Pipkin, Sayre, Smith of L., Welch, and Woolfolk—8.

On motion of Mr. McFERRAN, the title of the ordinance, passed by the Convention, “Providing for abolishing certain offices, reducing salaries, and testing the loyalty of civil officers in this State,” was amended, by adding thereto, “and providing an amnesty for certain persons on certain conditions.”

Mr. How, from the Committee on Ways

and Means, made a report, which was received and agreed to.

Mr. BIRCH, from the Committee on Ways and Means, reported an ordinance, entitled, "An ordinance providing for the defence of the State," which, on motion of Mr. PHILLIPS, was laid on the table, two hundred copies ordered to be printed, and made the special order for to-morrow at ten o'clock.

Mr. HENDERSON offered an ordinance on the same subject, which was disposed of in like manner.

Mr. WELCH offered the following resolution, which was adopted :

Resolved, That an ordinance passed at the present session of this Convention, entitled "An ordinance providing for changing the time of holding certain elections," and an ordinance entitled "An ordinance providing for abolishing certain offices, reducing salaries and testing the loyalty of civil officers, and offering amnesty to certain persons on certain conditions," passed at the present session of this Convention, be published and paid for in the same manner as the ordinances adopted by this Convention at its session in July last.

Mr. McFERRAN, from the Committee on Civil Officers, made the following report :

The Committee on Civil Officers have had under consideration the accompanying ordinance, and a majority agree to, and report the same back to the Convention, and recommend its adoption.

McFERRAN, *Chairman*.

AN ORDINANCE CONCERNING THE REPEAL OF THE SECOND SECTION OF AN ACT OF THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, ENTITLED, "AN ACT TO ESTABLISH A UNIFORM SYSTEM OF PUBLISHING NOTICES OF JUDICIAL SALES AND OTHER LEGAL NOTICES IN ST. LOUIS COUNTY, STATE OF MISSOURI."

Be it ordained by the People of Missouri in Convention assembled, as follows :

The second section of an act of the General Assembly of the State of Missouri, approved March 5, 1861, entitled, "An act to establish a uniform system of publishing notices of judicial sales and other legal notices in St. Louis county, State of Missouri," is hereby repealed, and declared of no validity whatever.

Mr. HALL of B. moved to lay the ordinance on the table, which motion was decided in the negative by the following vote—the ayes and noes called for by Mr. WRIGHT :

AYES—Messrs. Douglass, Gravelly, Hall of B., Henderson, Hendricks, Howell, Jamison, Johnson, Noell, Phillips, Pipkin, Pomeroy, Rowland, Sayre, Shackelford of St. L., Stewart, Tindall, Welch, Woolfolk, Wright, Vanbuskirk, and Mr. President—22.

NOES—Messrs. Allen, Birch, Bogy, Breckinridge, Broadhead, Bridge, Bush, Eitzen, Foster, Gantt, Hitchcock, Holmes, How, Irwin, Isbell, Jackson, Leeper, Linton, Long, Marvin, Maupin, McCormack, McDowell, McFerran, Meyer, Orr, Smith of St. L., Turner, and Zimmerman—29.

On the passage of the ordinance Mr. PIPKIN called for the ayes and noes, and it appearing there was no quorum, on motion of Mr. HALL of B., the Convention adjourned until to-morrow morning at ten o'clock.

EIGHTH DAY.

FRIDAY MORNING, October 18, 1861.

The Convention met pursuant to adjournment, and was opened with prayer by the Rev. Mr. McCLAIN.

The Journal of the proceedings of yesterday was read and approved.

The regular order having been passed over temporarily, Mr. WELCH introduced the following resolution, which was adopted:

Resolved, That the President appoint a committee of three to contract with George Knapp and Co., for the printing of five thousand copies of the debates and proceedings of the present called session of the State Convention, at rates not exceeding those heretofore agreed upon between the Convention and the said George Knapp & Co., at its regular session in March last.

Resolved, That the account of George Knapp & Co., for printing five thousand copies of the proceedings and debates of this Convention, be audited by said committee, and that the same be considered as printing for the Convention, and paid for as other allowances of the Convention.

Resolved, That said printed proceedings be distributed equally among the members of the Convention.

The President appointed upon said committee Messrs. Welch, Smith of St. L., and Long.

Mr. WELCH offered the following resolution, which was adopted:

Resolved, That the Committee on Accounts be directed to audit and allow the accounts for stationery purchased for the use of the Convention; and also the claim for the rent of the Hall occupied by the Convention, and that said claim for rent and stationery be paid as other accounts of the Convention.

The ordinance to provide for the defense of the State introduced by Mr. BIRCH, from

the Committee on Ways and Means, was taken up, and is as follows:

AN ORDINANCE TO PROVIDE FOR THE DEFENSE OF THE STATE.

Be it ordained by the People of the State of Missouri, by their Delegates in Convention assembled, as follows:

That in order to facilitate the prompt and regular acknowledgment of such indebtedness as may accrue under the provisions of the ordinance "to provide for the organization and government of the Missouri State Militia," in cases where no money may be at the time available for the payment thereof, the Auditor of Public Accounts shall cause to be prepared warrants in the form hereafter prescribed, with such devices as he may think proper—such warrants to be of the denominations of five, ten, twenty, fifty, one hundred, and one thousand dollars, making the amount in dollars of each denomination equal, and the whole amount, to be outstanding at any time, not to exceed one million dollars—which warrants shall be signed by the Auditor, and countersigned by the Secretary of State, and shall be registered in the office of the Auditor and Secretary of State, and shall be at all times redeemable at the Treasury, out of any money in the Treasury not otherwise appropriated.

The following shall be the form of said warrants before being filled up:

The State of Missouri promises to pay to ——— or to his assignee, ——— dollars, and this warrant shall be receivable in taxes due the State, and the bank stock owned by the State is pledged for its redemption, if it shall not be otherwise redeemed or paid in for taxes before the thirty-first day of December, 1862.

———— Auditor.

(Countersigned,)

———— Secretary of State.

The warrants shall be delivered to such persons as the State may be indebted, whether for services, subsistence, forage, clothing, transportation, or other necessities furnished according to law to the troops in the service of the State, and shall pass by special assignment alone; and in order that such acknowledgments may be made, the Auditor shall issue to any disbursing officer of the State Militia, upon the order of the Governor, such amounts as may be required for the public service—the warrants so issued having the blank for the name of the payee unfilled, and to be filled by the disbursing officer with the name of the person to whom the State is indebted, and to whom the warrant shall be issued. The officer receiving such warrants from the Auditor shall give his duplicate receipts therefor, one of which shall be filed in the office of the Auditor, and the other in the office of the Secretary of State; and each disbursing officer shall be charged by the Auditor with the amount of warrants so issued to him, and shall settle with the Auditor therefor, by producing legal and valid vouchers for the amount paid out by him, and return the residue to the Auditor; such settlement to be made at the end of each quarter of a year from the first day of January, in the year eighteen hundred and sixty-two. The disbursing officer so delivering a warrant to a creditor of the State, shall endorse on the warrant so delivered the statement that he issued it, thus—“This warrant issued by me”—and shall subscribe thereto his name with his style of office, and said warrant shall be taken up or redeemed by the proper disbursing officer with money, whenever he may be furnished with it for that purpose.

The Treasurer shall receive from each collector of taxes, upon settlement, such warrants as may have been paid in to him for taxes, and shall give him credit therefor as cash; and any sheriff, or other collector of taxes, who shall directly or indirectly be concerned in the purchase of such warrants at a discount upon their nominal amount, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined double the amount of the warrant so purchased.

At the end of each fiscal year, the Secretary of State, Auditor, and Treasurer, shall together compare the warrants that may have been paid into the treasury for taxes with the register in the offices of the Secretary and Auditor, and if it be found that such warrants are genuine and correspond with the register, and that there is no reason to believe that fraud has been practised upon the State in relation to such warrants, they shall destroy those thus redeemed; but if they find that any fraud has been practised, they shall preserve the warrants which may have been fraudulently issued, altered, counterfeited, or used, to be evidence in any judicial proceeding.

Mr. HENDERSON moved to amend as follows:

Amend by adding to the ordinance the following:

“*Be it further ordained*, That for the purpose of arming and supporting the Militia of the State, and with a view to protect the lives and property of its citizens, the Governor of the State is hereby authorized and empowered to issue bonds of the State to the amount of one million of dollars, which said bonds shall be dated on the day of their issue, and made payable ten years after the date thereof, bearing interest at the rate of seven per cent. per annum, and with interest coupons attached; the interest to be paid semi-annually, at the Bank of Commerce, in the city of New York, or at such other point as the Governor may deem expedient.

“Said bonds shall be issued under the seal of the State, in sums of not less than two hundred nor more than five thousand dollars—shall be signed by the Governor, and countersigned by the Secretary of State. The interest coupons shall be signed by the Governor, and attested by the Auditor of Public Accounts, and shall be made payable on the first day of January and the first day of July of each year. The bonds aforesaid shall be made payable to the Auditor of Public Accounts, and by him numbered and registered in his office.

“The Auditor shall endorse said bonds, and deliver the same to the Governor, who is hereby authorized and empowered to nego-

tiate the same upon such terms as he may deem best for the interests of the people of the State. He may hypothecate them, or any amount of them, to individuals, or to the Government of the United States, for moneys advanced; and if the same can not be sold nor hypothecated upon terms satisfactory to the Governor, he shall solicit the endorsement of said bonds by the proper authorities of the Federal Government previous to their negotiation.

"All bonds issued under the provisions of this ordinance shall be denominated UNION DEFENCE BONDS OF MISSOURI; the faith and credit of the State are hereby pledged to the payment of the principal and interest thereof, and for the purpose of securing the prompt payment of the interest thereon, it is hereby ordained that the Treasurer of the State shall annually set aside the sum of seventy thousand dollars out of any money coming into the treasury on account of the revenues of the State.

"In order to secure the ultimate redemption of the aforesaid bonds, it is hereby ordained and declared that the clerks of the county courts of the several counties of the State, or the clerks of the tribunals then entrusted with similar duties under the laws of the State at the time, when they prepare a copy of the tax books for the years 1870 and 1871, for the use of the collectors of their respective counties, levy, in addition to the tax which shall or may then be levied by the laws of the State, fifteen cents on the hundred dollars of taxable property, for each of the years aforesaid, in their respective counties, which said tax shall be kept separate by the collectors and the Auditor and Treasurer of the State, under the title or head of "Union Defence Fund." During the years 1870 and 1871, there shall be levied and collected upon all licenses granted a tax of twenty-five per cent. in addition to the amounts prescribed to be collected thereon by the legislation of the State at that time, which said license tax shall in like manner be paid into the treasury to the credit of said fund. And upon the maturity of the bonds hereinbefore provided for, the Governor and Treasurer of

the State shall cause the same to be redeemed out of the fund herein created.

"The said tax shall be collected in the same manner as may at the time be provided for the collection of the revenue of the State; and the several officers charged with duties in respect to the collection of the general revenue shall have the same powers and privileges in respect to said special tax, and shall be liable to the same penalties and forfeitures for failure to perform their respective duties."

The amendment was agreed to.

The ordinance as amended was then adopted by the following vote, the ayes and noes being called by Mr. Wright:

AYES—Messrs. Allen, Birch, Boggy, Breckinridge, Broadhead, Bridge, Bush, Eitzen, Gravelly, Hall of B., Hall of R., Henderson, Hendricks, Hitchcock, Holmes, How, Irwin, Isbell, Jackson, Jamison, Johnson, Leeper, Linton, Long, Maupin, McDowell, McFerran, Meyer, Noell, Orr, Pomeroy, Rowland, Shackelford of St. L., Smith of St. L., Turner, Vanbuskirk, and Zimmerman—37.

NOES—Messrs. Douglass, Howell, Hudgens, Marvin, McCormack, Phillips, Pipkin, Sayre, Smith of L., Tindall, Welch, Woolfolk, Wright, and Mr. President—14.

Mr. Woolfolk offered the following resolutions, which were adopted:

Be it resolved by the People of Missouri in Convention assembled, as follows:

That, as many of our loyal citizens have entered into the service of the State of Missouri for the purpose of repelling invasion, suppressing insurrection, and enforcing the laws of the Union in this State, which duties the Constitution imposes upon the Federal Government; and believing that the citizen soldiery of the State, acquainted as they are with persons and localities, are more effective for suppressing the civil and social war in our midst, and restoring and preserving law and order, than troops from other States; and further believing that the militia system should be maintained, as many of our citizens will enter the service of the State who would be unable or unwilling to enlist as Federal soldiery; and whereas the financial condition of the State of Missouri renders it impracticable to provide for the arming, main-

tenance and pay of such volunteer militia as have enlisted or may hereafter enlist in the service of the State during the existence of the present civil and social war in our midst:

Resolved, That the Governor be directed to proceed to Washington, to make known to the General Government the condition of the State, its military organization and finances, and to propose to that Government such measures as will enable the State to cooperate efficiently in the prosecution of the present war.

Mr. BRECKINRIDGE offered the following resolution:

Resolved, That when this Convention adjourn its present session, it will adjourn to meet in the Representative Hall at Jefferson city, on the first Monday of April, A. A. 1862; subject, however, to the call of the Governor, who shall have power to convene the body at such time prior thereto, and at such place, as in his judgment the public exigencies may require.

Mr. HOWELL moved to amend, by way of substitute:

Resolved, That when this Convention adjourns its present session, it shall stand adjourned *sine die*.

Which was disagreed to.

Mr. ORR moved to amend by striking out the words "and at such place as in his judgment the public exigencies may require." Disagreed to.

Mr. SMITH of St. Louis offered the following substitute, which was adopted:

Resolved, That the existence of this Convention shall terminate on the day of the assemblage of the Legislature to be elected in 1862, and in the interim shall be subject to be called together by the Governor if in his opinion the exigencies of the State may require its assemblage, but not otherwise.

Mr. BIRCH offered the following, which was adopted:

Resolved, That the Secretary of this Convention be instructed and required to properly enrol the ordinances of this Convention, certify to the date of the passage thereof, and file them in the office of the Secretary of State.

On motion of Mr. HALL of B., the Convention adjourned until 3 o'clock P. M.

The Convention was called to order by the President.

Mr. WELCH offered the following resolution, which was adopted:

Whereas, at the first session of this Convention, a contract was entered into by this body, through a committee appointed for that purpose, with two reporters, to report its debates and proceedings; and whereas since the last adjournment one of said reporters has departed this life, and the whole and entire labor of such report has been performed by Mr. L. L. Walbridge, the survivor of said reporters: Therefore,

Resolved, That the Committee on Accounts be instructed to allow to said L. L. Walbridge the pay heretofore allowed to both of said reporters, and that said claim be paid in the same manner as the pay of the officers and members of this Convention.

Mr. BIRCH presented the following:

AN ORDINANCE CONCERNING THE RESUMPTION OF SPECIE PAYMENT BY ALL THE BANKS IN THE STATE OF MISSOURI.

Whereas the General Assembly of the State of Missouri did, contrary to the true interest of the people and in violation of the Constitution of the State, enact certain laws attempting to legalize the suspension of specie payment by the banks of this State: Therefore,

Be it ordained, That all the banks of issue chartered in this State, parent banks and their branches, shall resume specie payment on or before the first day of February, 1862. From and after said day, they shall be required to redeem each their own circulation with gold and silver coin; and whenever, after said day, a demand shall be made at the counter of any bank for the redemption of her notes, the same shall be considered as on demand, without regard to the denomination or number of notes presented. If any bank shall fail promptly to pay and redeem in gold and silver coin her notes, when such demand is made, the charter of such bank shall be annulled and forfeited; and it shall be the duty of the Governor, on receiving evidence satisfactory to him of such failure, to take pos-

session immediately of all the property and assets of such bank, of whatever nature and description, and wherever the same may be located, and to have the affairs and business of such bank administered and wound up for the best interest of its creditors, by such persons as he shall designate in such manner as to pay and cancel, first, her circulation; next, to pay all other lawful debts of such bank, and lastly, to divide any balance remaining among the stockholders: and all acts and parts of acts inconsistent with this ordinance are hereby repealed.

Pending action on which, on motion of Mr. HALL of B., the Convention took a recess of half an hour.

The Convention having been called to order by the President,

Mr. SMITH of St. Louis presented the following, which was read:

AN ORDINANCE TO PREVENT THE SACRIFICE OF PROPERTY.

The People of Missouri in Convention assembled, do ordain as follows:

All real estate hereafter sold under execution or deed of trust shall be subject to redemption any time within two years from the passage of this ordinance, on payment of the debt, interest, and costs, with interest thereon at the rate of ten per cent. per annum from the time of such sale until the day of redemption.

On motion of Mr. HALL of B., the Convention adjourned.

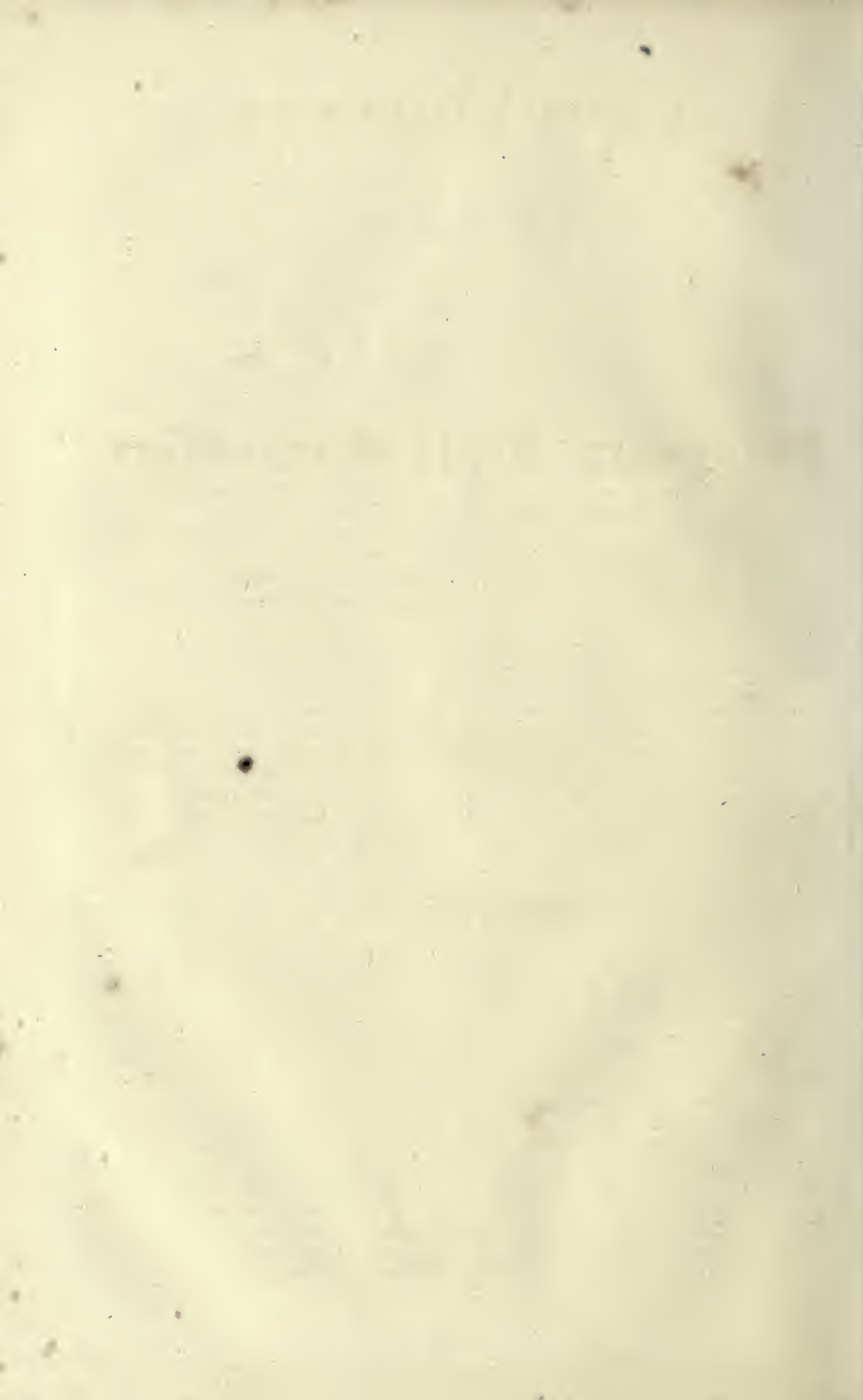
ROBERT WILSON, *President.*

Attest:

SAMUEL A. LOWE, *Secretary.*

I N D E X .

<p>Assistant Sergeant-at-Arms, appointed 5</p> <p>Committees appointed—on Militia 5-6</p> <p style="padding-left: 20px;">Ways and Means 5-6</p> <p style="padding-left: 20px;">Civil Officers 5-6</p> <p style="padding-left: 20px;">Elections 5-6</p> <p style="padding-left: 20px;">Revenue 5-6</p> <p>Communication from the Governor 4</p> <p>Doorkeeper appointed 5</p> <p>Doorkeeper and Sergeant-at-arms sworn 5</p> <p>Eighth day's proceedings 23</p> <p>Fifth day's proceedings 11</p> <p>First day's proceedings 3</p> <p>Mileage for members, order made for 11</p> <p>Ordinance concerning the repeal of the second section of an act of the General Assembly of the State of Missouri, entitled "An Act to establish a uniform system of publishing notices of judicial sales and other legal notices in St. Louis county, State of Missouri." Considered 22</p> <p style="padding-left: 20px;">concerning the resumption of specie payment by all the banks in the State of Missouri 26</p> <p style="padding-left: 20px;">to prevent the sacrifice of property 27</p> <p style="padding-left: 20px;">to provide for the defence of the State 23</p> <p style="padding-left: 20px;">amendment to same 24</p> <p>Ordinance to provide for the organization of the State Militia 17</p> <p style="padding-left: 20px;">same considered 20</p> <p style="padding-left: 20px;">same adopted as amended 21</p> <p>Ordinance, proposed by Mr. Meyer 8-9</p> <p style="padding-left: 20px;">respecting certain Records and other property of the State 20</p> <p>Petition from the Presidents of Railroads 11</p> <p>Proclamation of Gov. Gamble 3</p> <p>Proposition to amend rules, Mr. Hall of R. 16</p> <p>Report of Committee on Civil Officers, consideration of, resumed 14</p> <p style="padding-left: 20px;">of Committee on Civil Officers; considered 12-13</p>	<p>Report of Committee on Civil Officers 10</p> <p style="padding-left: 20px;">of Committee on Elections, as amended 11</p> <p style="padding-left: 20px;">of Committee on Elections, considered 9</p> <p style="padding-left: 20px;">of Committee on Elections 8</p> <p style="padding-left: 20px;">of Committee on Militia 11-12</p> <p style="padding-left: 20px;">of Committee of Ways and Means; agreed to 21</p> <p>Resolution and amendment to refer Governor's Message to Committee of Eight 5</p> <p style="padding-left: 20px;">to Enrol the Ordinances 26</p> <p style="padding-left: 20px;">to print proceedings; adopted 23</p> <p style="padding-left: 20px;">to pay Reporter 26</p> <p style="padding-left: 20px;">by Mr. Birch 7</p> <p style="padding-left: 20px;">by Mr. Breckinridge, for Chaplain 7</p> <p style="padding-left: 20px;">by Mr. Breckinridge, with amendments, substitute 26</p> <p style="padding-left: 20px;">by Mr. Hall of R., adopted 20</p> <p style="padding-left: 20px;">by Mr. Hitchcock, referred to Committee of Ways and Means 6-7</p> <p style="padding-left: 20px;">by Mr. Long, referred to Committee of Ways and Means 6</p> <p style="padding-left: 20px;">by Mr. McCormack, referred to Committee of Ways and Means 11</p> <p style="padding-left: 20px;">by Mr. McFerran, adopted 7</p> <p style="padding-left: 20px;">by Mr. McDowell, referred to Committee on Elections 6</p> <p style="padding-left: 20px;">by Mr. Stewart, referred to Committee on Elections 6</p> <p style="padding-left: 20px;">by Mr. Welch, to receive certificates of pay of the members for taxes; adopted 13</p> <p style="padding-left: 20px;">by Mr. Welch, referred to Committee of Ways and Means 6</p> <p style="padding-left: 20px;">by Mr. Woolfolk, adopted 25</p> <p style="padding-left: 20px;">by Mr. Zimmerman, referred to Committee of Ways and Means 9</p> <p>Second day's proceedings 4</p> <p>Seventh day's proceedings 20</p> <p>Third day's proceedings 8</p>
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PROCEEDINGS

OF THE

Missouri State Convention,

HELD AT THE

CITY OF ST. LOUIS,

OCTOBER, 1861.



ST. LOUIS:

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PROCEEDINGS

OF THE

MISSOURI STATE CONVENTION,

HELD AT THE CITY OF ST. LOUIS, OCTOBER, 1861.

FIRST DAY.

THURSDAY, October 10, 1861.

The State Convention met at eleven o'clock, and was called to order by the Vice-President, Mr. WELCH.

The Clerk called the roll, and only thirty-five answered to their names, as follows:

Messrs Bogy, Breckinridge, Broadhead, Bridge, Bush, Douglass, Gravelly, Hall of Buchanan, Holmes, How, Howell, Hudgins, Isbell, Jackson, Johnson, Leeper, Linton, Long, Marvin, McCormack, McDowell, Meyer, Orr, Phillips, Pipkin, Pomeroy, Rowland, Shackelford of St. Louis, Smith of Linn, Smith of St. Louis, Turner, Welch, Woolfolk, Vanbuskirk, Zimmerman.

The Vice-President said he was at a loss to know what step to take in the absence of a quorum.

Mr. BROADHEAD moved to adjourn until to-morrow morning.

Mr. BIRCH moved to adjourn until 3 o'clock this afternoon.

Mr. BROADHEAD withdrew his motion, and

the motion of Mr. Birch was sustained. The Convention then adjourned to 3 o'clock.

AFTERNOON SESSION.

The Convention met at 3 P. M. The roll was called and the following members answered to their names:

Messrs. Birch, Breckinridge, Broadhead, Bridge, Bush, Douglass, Eitzen, Gravelly, Hall of Buchanan, Hitchcock, Holmes, How, Howell, Hudgins, Isbell, Jackson, Johnson, Leeper, Linton, Long, Marvin, McCormack, McDowell, Meyer, Orr, Phillips, Pipkin, Pomeroy, Rowland, Sayer, Shackelford of St. Louis, Smith of Linn, Smith of St. Louis, Stewart, Tindall, Turner, Welch, Welch, Woolfolk, Wright, and Zimmerman.

There not being a quorum present, Mr. HALL of Buchanan moved the Convention adjourn until 10 o'clock to-morrow. Motion sustained, and Convention adjourned.

SECOND DAY.

FRIDAY, October 11, 1861.

Met at 10 A. M., Mr. President WILSON in the chair.

The roll was called and a quorum of members found to be present, as follows :

Messrs. Allen, Birch, Breckinridge, Broadhead, Bridge, Bush, Douglass, Eitzen, Gantt, Gravelly, Hall of Buchanan, Hall of Randolph, Henderson, Hendricks, Hitchcock, Holmes, How, Howell, Hudgins, Irwin, Jackson, Jamison, Johnson, Leeper, Linton, Long, Marvin, Maupin, McCormack, McDowell, McFerran, Meyer, Orr, Phillips, Pipkin, Pomeroy, Rowland, Sayer, Shackelford of St. Louis, Smith of Linn, Smith of St. Louis, Stewart, Tindall, Turner, Welch, Woolfolk, Wright, Vanhuskirk, Zimmerman, and Mr. President.

The journal of yesterday was read, also the proclamation of the Governor calling the Convention together.

The following message from the Governor was also read :

"To the Convention of the State of Missouri.

"In the exercise of the power which you have conferred upon me, I have called the body to assemble at this time, to consider and adopt such measures as the welfare of the State may require.

"Although there is no constitutional requirement that I should communicate to you my views of the condition of the State, or recommend any measures for your adoption, yet there seems to be a propriety in my stating the reasons for calling you together at this time.

"You need not be informed by me, that, throughout the length and breadth of the State, there is now existing a civil war that threatens the destruction of all government, and strikes at the very foundations of society. You are acquainted already with the situation of affairs in our State.

"The obligations which rest upon the Chief Executive to preserve order and peace in the community, to enforce the laws, and to suppress by force all combinations against the State, require that more efficient measures for the organization of the military power of the State should be adopted than now exist. The

act of 1859, which you revived at your last session and made the law for the organization of volunteer forces, is found, upon trial, to be a most inefficient law in the present times, which require promptitude and energy.

"It is therefore assigned, as one of the principal reasons for calling the Convention, that you should adopt a Military Law more simple and more efficient than that now existing.

"You are aware further, that the Treasury of the State is empty. The Treasurer reported to me on the 24th of September last that there was in the Treasury \$21,422.73, which was subject to a deduction for coupons paid by the Bank of the State on the old debt, the amount of which coupons he had not ascertained. The whole of the sum thus reported in the Treasury is, in all probability, already absorbed by the payment of the salaries of civil officers. At this time the sheriffs in very many of the counties are resigning their offices in order to avoid the duty of collecting the taxes, which is supposed to be impracticable.

"Under these circumstances, it is apparently impossible to provide means by existing laws for the payment of the ordinary expenses of the government, and it is manifestly impossible to provide, by any system of taxation, for the extraordinary expenses of a military force.

"That you might devise some scheme for raising the money which is indispensably necessary to support troops, and to defray ordinary expenses, was another reason for calling you together.

"Beyond these two reasons for the call, it is believed by many, and the opinion has been expressed to me, that the election for State officers, ordered at your last session, to take place on the first Monday of November next, cannot be held, so as to obtain a fair expression of the public will. In the disturbed condition of the State, with many citizens absent from the State, with excitement existing throughout our whole limits, so that in some districts citizens entertaining one set of opinions would not be permitted to vote, while in other sections those holding opposite opinions would be denied the

right of suffrage; it is obviously impossible to have a fair vote taken.

"As I concur in the opinion thus expressed, this question of postponing the election is submitted to your consideration without any reasoning on my part in favor of the postponement.

"It is proper for me, while calling your attention to this subject of the election, to remind you that when I was chosen to fill my present position of Provisional Governor, I was chosen to exercise the executive functions until the first Monday of November; yet as the words of the ordinance are, 'and until his successor shall be duly elected and qualified,' the effect of a postponement of the election will be to continue me in office for a longer period than was contemplated by the Convention when I was chosen, or by me when I accepted the office. It is proper, therefore, that you should at this time select a person to discharge the executive duties during the prolonged period that will elapse before an election can be held. In making such selection, you will remember that you have the whole State from which to make the choice, without confining yourselves to the members of the Convention. It is not necessary that I remind you, that the only basis of a safe choice is the good of the people, without regard to personal predilections or party relations. The motto on our State arms, '*Salus populi suprema lex esto*,' furnishes a safe guide in all our public action.

"There are other matters upon which there is a desire among the people that you should act, but which, as they have no connection with the duties of the office I hold, and as they partake of the character of ordinary legislation, I forbear to mention in this communication.

"H. R. GAMBLE."

Mr. BIRCH moved that the Governor's message be laid on the table, and 10,000 copies printed.

Mr. BROADHEAD moved to substitute 200 copies for 10,000.

Mr. BROADHEAD's motion was sustained.

By Mr. BIRCH,

Resolved, That Henry C. Wamouth be appointed doorkeeper of the Convention.

Mr. BIRCH said Mr. Wamouth had been driven from his home in consequence of the present troubles; that he came here well endorsed, and he thought it perfectly proper to offer his name to the Convention.

Mr. BRECKINRIDGE offered the following,

and asked that it might be incorporated in Mr. Birch's resolution:

Resolved, That Joshua H. Alexander be appointed assistant sergeant-at-arms.

Mr. BIRCH preferred to have each resolution offered separately.

Mr. WELCH asked whether or not the offices were not already filled, and if so, would it not be better to first declare them vacant? His impression was that Mr. Grover, of his county, was still sergeant-at-arms, and that Mr. Anderson of Moniteau county, was doorkeeper.

Mr. BIRCH supposed it was known by every member of the Convention that Anderson was in the Southern army. His resolution did not propose to declare the office of doorkeeper vacant, as that would involve the necessity of inquiring where Mr. Anderson was; but merely provided that the office be filled for the present.

The resolution was adopted.

Mr. BRECKINRIDGE then renewed his resolution, remarking, in answer to the suggestion of Mr. Welch, that he was aware Mr. Grover was already sergeant-at-arms; he should take no steps toward his removal, and only regretted that, while serving his country, he (Grover) had been placed in a position which made it impossible to be present. Capt. Cozzens was their assistant sergeant-at-arms, but their experience last spring was that this hall was so large as to require the assistance of several persons to keep order. Besides that, it was necessary that some of these persons should be familiar with the people of the city, and Mr. Alexander was well qualified in this respect.

The resolution to appoint Mr. Alexander was adopted.

Messrs. Wamouth and Alexander then came forward and had the oath of office administered to them by Judge Breckinridge.

By Mr. TINDALL,

Resolved, That the Governor's message be referred to the Committee of Eight appointed last session, with instructions to report such measures for the action of the Convention as they may think proper.

Mr. McFERRAN offered the following as a substitute:

Resolved, That the following committees be appointed, each to consist of seven members, viz: On Military, on Ways and Means, on Civil Officers, on Elections, and on Revenue.

Mr. McFerran said the resolution offered by his friend from Grundy (Mr. Tindall) imposed all the labor of the Convention upon one committee, while the substitute which he had offer-

ed referred the different subjects to be acted upon to different committees. If the members of the Convention did their duty, they had a great amount of labor to perform, and he thought the business would be more expeditiously transacted by dividing it up and referring it to the consideration of different committees.

He thought every committee referred to in the substitute entirely necessary. They wanted a Committee on the Militia, whose duty it shall be to prepare an efficient military bill: this would be a considerable task, and one requiring much time and labor. They wanted a Committee on Civil Officers, as the civil affairs of the State needed supervision or revision in some way or other. They wanted a Committee on Ways and Means, to provide ways and means to carry on the Government; and they also required a Committee on the Revenue. He hoped all these committees would be appointed, as he thought them necessary. The State was in great need of their services, and the more efficiently and expeditiously the work was done the better it would be for all.

Mr. GANTT wished to be informed in reference to the Committee on Elections; whether or not it was contemplated that this committee should report upon the election of each member of the Convention. If so, there could be no difficulty in the premises, and it occurred to him that the subject would not require a separate committee.

Mr. McFERRAN replied that the object had in view by the appointment of the committee, was in reference to the election laws of the State. He thought that, under the circumstances now surrounding us, our election laws were insufficient.

Mr. GANTT was glad he asked for information, as the object of the committee was certainly not comprehended in its title. Could not the subject of elections just as well be committed to the Committee on Civil Officers?

Mr. McFERRAN replied that was an altogether different thing.

Mr. GANTT said there was one modification which could be made, and which would be highly desirable: that was to have the committees composed of five instead of seven members. He felt satisfied that a less number would be preferable and conduce quite as much to the dispatch of business.

Mr. McFERRAN would accept the suggestion.

The resolution as amended was then adopted.

The PRESIDENT announced he would appoint the committees during the afternoon session.

By Mr. BRECKINRIDGE:

Resolved, That the Rev. Joseph J. Porter of St. Louis be requested to act as Chaplain during the present session of the Convention.

Mr. BRECKINRIDGE said he was informed that Mr. Monroe, the regularly elected Chaplain, was not in the city, and probably would not be. He (Mr. B.) knew nothing himself of his whereabouts or the probability of his being here, but he thought it was necessary that they should have a Chaplain. It was thought necessary at the beginning of the Convention; and if it was necessary then, it was eminently more so now. Mr. Porter was the pastor of one of the churches in this city, and, although this resolution was offered without his consent, he presumed Mr. Porter would, at the request of the Convention, act as its Chaplain.

Mr. GANTT. Was it not upon the gentleman's motion that Mr. Monroe was originally appointed?

Mr. BRECKINRIDGE. No, sir.

Mr. WRIGHT. What has become of our old Chaplain?

Mr. BRECKINRIDGE said he had already informed the Convention in this respect so far as his knowledge extended.

Mr. WRIGHT. I cannot hear a word.

Mr. BRECKINRIDGE said he had forgotten the hall was so large and that it was so difficult to hear distinctly, and then repeated more distinctly his previous statement in reference to Mr. Monroe.

After consultation, Mr. BRECKINRIDGE subsequently said he would withdraw the resolution and offer it in another form this evening, for the reason that there were several gentlemen who might be invited instead of one.

On motion of Mr. HALL of Buchanan, the Convention adjourned to 3 P. M.

AFTERNOON SESSION.

Met at 3 P. M.

The President announced the following committees, in accordance with the resolution offered by Mr. McFerran:

Militia—Messrs. Tindall, Gantt, Sayre, Henderson, and Hitchcock.

Ways and Means—Messrs. How, Birch, Howell, Hall of Randolph, and Douglass.

Civil Officers—Messrs. McFerran, Phillips, Wright, Orr, and Broadhead.

Elections—Messrs. Hendricks, Marvin, Breckinridge, Hudgins, and Turner.

Revenue—Messrs. Hall of Buchanan, McCormack, Gravelly, Rowland, and Woolfolk.

By Mr. LONG :

Resolved, That the Committee on Ways and Means prepare and report an ordinance for the following objects :

1. A suspension of all sales of real estate under execution until otherwise ordered by the Convention.

2. A suspension of all Courts, except for the transaction of criminal and county business, until otherwise directed by the Convention.

3. Authorizing the redemption of real estate sold under deeds of trust within two years after the sale thereof.

Mr. HOWELL moved that the resolution be referred to the Committee on Ways and Means. Motion sustained.

Mr. WELCH offered a resolution, providing that the Auditor of the State be directed not to audit or allow, and that the Treasurer of the State be directed not to pay, from and after the passage of this resolution, the salaries allowed by the existing laws of the State to the following officers, viz :

The Board of Public Works ; the Superintendent of Common Schools ; the State Commissioners ; officers of the State Lunatic Asylum ; the officers of the Deaf and Dumb Asylum ; Judges of the Circuit Courts, and the Circuit Attorneys, except that for St. Louis county. Also, that the suspension of the payment of the salaries provided for in the foregoing resolution shall continue until the Provisional Governor or his successor shall otherwise order.

Referred to the Committee on Ways and Means.

Mr. McDOWELL offered a resolution that the Committee on Elections report an ordinance postponing the election for State officers until the first Monday in August, 1862. Referred to the Committee on Ways and Means.

Mr. STEWART offered a resolution that the Committee on Elections report a bill requiring all voters in the State to take an oath to support the Constitution of the United States and the State of Missouri. Referred.

Mr. HITCHCOCK offered the following resolution :

Resolved, That the Committee on Ways and Means be in-structed to consider the expediency

of the action of the Convention for the purpose of confiscating the property of persons, citizens or residents of this State, who shall, after the expiration of a reasonable time, be found employed in aiding or abetting the rebellion now on foot within its borders, and for the application of the property so confiscated—first, to the reimbursement of loyal citizens of the State for the losses they have sustained in support of the Government ; and, second, to the uses of the State ; and that they report by ordinance or otherwise.

Mr. HOWELL. I move that the resolution be rejected right here.

Mr. WRIGHT. I second the motion.

Mr. BRECKINRIDGE. It occurs to me that this is rather a singular course to take in regard to a resolution of instruction. If the gentleman wishes a test vote, I take it the Convention will oblige him ; but this being a resolution of instruction, I am of the opinion that, in accordance with parliamentary usage, it should go before the committee for their consideration.

Mr. HITCHCOCK said he supposed it was hardly worth while to say anything in support of a simple suggestion which would go before the committee for their consideration.

Mr. HOWELL. I do not desire to be instructed to consider such a resolution ; I therefore, as a member of the committee to whom it is proposed to refer the resolution, move its rejection, and on that motion I call the ayes and noes.

Mr. BIRCH. Called suddenly as I am to vote upon this resolution, I desire to assign the reasons why I shall vote against it. Firstly, I do not think it is proper for the Committee on Ways and Means to consider this a source from which to raise money ; and secondly, I trust we have not reached the time when the action contemplated by the resolution is necessary. I make no apology for those who have devastated the State, and who yet threaten it ; but I would avoid, even yet, if I could, so extreme a resort as that provided by the resolution. I shall, therefore, sir, vote against the resolution, knowing, at the same time, that there are those who are entitled to no mercy—some, sir, from my own county, who have threatened to come back with fire and sword, and lay waste my own and my neighbor's dwellings. While I crave no mercy from them, I am not ready to resort to any extreme measures against them—preferring to meet

them boldly and fearlessly, and with the strong arm of justice on our side.

The vote was then taken, and Mr. Howell's motion to reject lost—ayes 21, noes 28, as follows :

AYES—Messrs. Allen, Birch, Bridge, Hall of Randolph, Howell, Hudgins, Jamison, Long, Marvin, McFerran, Phillips, Pipkin, Pomeroy, Rowland, Sayre, Shackelford of St. Louis, Woolfolk, Wright, Vanbuskirk, Zimmerman, and Mr. President—21.

NAYS—Messrs. Breckinridge, Broadhead, Bush, Douglass, Eitzen, Gantt, Gravelly, Hall of Buchanan, Henderson, Hendricks, Hitchcock, Holmes, How, Irwin, Isbell, Jackson, Johnson, Leeper, Linton, Maupin, McDowell, Meyer, Orr, Smith of Linn, Smith of St. Louis, Stewart, Tindall, Turner—28.

The resolution was then referred to the Committee on Ways and Means.

MR. HOWELL. I desire, now, to resign as a member of the Committee of Ways and Means. I do not desire, as a member of that committee, to be required to consider a proposition of that kind at this juncture of our affairs.

MR. PRESIDENT said if there was no objection the gentleman would be excused from serving on the committee.

No objection being made, he was excused, and Mr. Irwin appointed in his stead.

MR. BRECKINRIDGE offered the following :

Resolved, That the clergymen of this city who are loyal to the Government of the United States be requested to attend the meetings of this Convention each day, and open the same with prayer.

MR. SAYRE. How are we to ascertain, Mr. President, whether these clergymen are loyal or not ?

THE PRESIDENT. I will refer you to the gentleman who offered the resolution.

MR. BRECKINRIDGE. I do not propose, Mr. President, to apply any test to ascertain their loyalty, but I take it for granted that no minister, or gentleman, will come here unless he is loyal.

MR. WELCH. I will suggest that the resolution requires all the clergymen to appear at once, and pray for us.

MR. BRECKINRIDGE. I think not, sir. That is not my design.

MR. WRIGHT. I think the resolution is perfectly proper ; because, in my opinion, the Convention is almost past praying for, and it is rather necessary to have a large number to pray.

The resolution was then adopted.

MR. STEWART offered the following :

Resolved, That the Committee on Militia be instructed to memorialize the War Department to establish a guerrilla warfare, for the purpose of driving all armed traitors out of the State.

MR. WRIGHT. I call for the ayes and noes.

MR. STEWART. Before the vote is taken, I wish briefly to state my reasons for offering the resolution. I do not think there is anything very improper in it ; or anything that need excite either the mirth or the disgust of any member of this Convention. I believe in the present crisis a warfare of this kind is absolutely necessary. I believe it is well known by every member of this Convention that there are armed traitors in the State who are carrying on a guerrilla warfare, whose object it is to plunder and devastate the country ; and I believe it is necessary, in consequence of our extended territory—in consequence of the great amount of brush and prairie where these rebels can hide, that we have a similar band to meet them at their own game. This plan has been suggested by others, and I believe it would prove the most efficient mode of putting a stop to these rebel outrages. I do not offer this resolution for the purpose of touching any man who has heretofore been accused of being a traitor, but I do offer it because I believe it is necessary for us to have a similar kind of warfare to that against which we have to contend.

MR. WRIGHT. I oppose this resolution, Mr. President, on the ground that the guerrilla warfare was instituted by the Home Guards, and I do not think it necessary to memorialize Congress on the subject at all. It would be idle to ask for a thing which we ourselves initiated.

MR. SAYRE said he understood the resolution to call upon the General Government to expel all Secessionists in arms, and institute a guerrilla warfare for that purpose. In his part of the country, they had some idea of what guerrillas are. They had some little experience in this respect, and it had been of such a character as not to commend itself to general use. Now, we were to be called upon by the terms of this resolution to invest irresponsible bands of men with very great authority—with power of deciding who are the Secessionists in arms. So far as his observation of these guerrilla parties in his section of the country had extended, he did not think that the people who have been using this power were the proper persons to be entrusted with it again. They are likely

to declare that all who have property, and plenty of means of subsistence, are Secessionists. They had said so, and they would be likely to do it again. It was only calling upon the people to make themselves rich by a legalized system of jayhawking. He did not think that the Convention would recommend such a system. It seemed to him they should scorn it and spurn it from among them.

Mr. STEWART said there seemed to be two words in his resolution particularly offensive. One was the word guerrilla. The object of the resolution was to call upon the Congress of the United States, or some other Department, to establish some means by which we could repel the invaders of the State. He was not particular about the use of the word guerilla, and he was willing to strike it out. The other word to which objection was made was the word secessionist. This word was not used in the resolution at all. The term "armed traitors" was used; and if the gentleman who happened to have secession proclivities considered that armed traitors meant secessionists, he was mistaken.

Mr. HITCHCOCK said it occurred to him that the discussion was out of place. If he understood the resolution, it called the attention of the War Department to a particular mode of carrying on the war, most likely to be effective. He believed that this would more properly be a subject for the consideration of a military council, composed of commissioned officers. It was not necessary for them to meddle in the matter. He moved to lay the subject on the table.

Mr. WRIGHT. I suggest that this resolution goes farther than the mover intends. Who are armed traitors?

Mr. HITCHCOCK. I call the gentleman to order. A motion to lay on the table is not debatable.

Mr. STEWART. I withdraw the resolution.

Mr. PHILLIPS offered the following:

Resolved, That all resolutions hereafter introduced be referred to an appropriate committee without debate.

Mr. BIRCH hoped the resolution would not be adopted. He had a substitute which he desired to offer, and which he considered it would be proper to discuss. He would read it for information:

Resolved, That the present and prospective condition of the country demands the postponement of our pending elections, the reduction of all official salaries, the postponement of co-

ercive measures for the collection of debts and taxes; that the sword of the State be strengthened through the credit of the State, and that the fidelity of its officers be secured by the most unquestionable guarantees.

Mr. WRIGHT. I arise to a question of order. I understand the question before us is to lay a resolution on the table.

Mr. PRESIDENT. The resolution has been withdrawn.

Mr. GRAVELLY said his understanding of bodies of this character was to refer resolutions to committees, when offered; and he took this opportunity to remark that, in casting his vote to refer the resolution in regard to the confiscation of property, he did not cast his vote with the intention of voting for such a proposition when it came before the Convention. He might or might not vote for it; but it was his understanding that when a resolution was offered it is customary to refer it to a committee, although the members voting to refer it may vote against the proposition when it comes before the Convention for action.

Mr. HUDGINS said that if it was the object of this body to prevent discussion—and he would not presume for a moment that it was—they could just say so at once by the adoption of this resolution, and declare that there shall be no discussion on a proposition before it goes to the committee, or afterwards. It is more important that a proposition should be discussed before it is referred. When it is referred, it has the endorsement of the body. He was inclined to think they would not save time by the adoption of any such resolution. If it was not the intention to prevent discussion, the ordinary rules of the body should not be departed from.

Mr. WELCH said for one he must be permitted to enter his protest against the adoption of a resolution of this character. We are now, sir, in the midst of the most important crisis which this country has ever witnessed. Issues of the utmost importance are before us, involving life, property, liberty, and peace—all are at stake. Yet it is proposed by the gentleman from Pettis, (Mr. Phillips,) that all propositions having reference to these questions shall be referred, under that "gag" resolution, to committees appointed by this House, without debate; and after they come back I presume a similar resolution will be adopted that they shall be passed without debate. Now, I have always opposed this infernal system of gagging; I denounce it as an iniquitous pro-

ceeding. If I understand the rules of this body now existing, whenever a gentleman introduces a resolution he has a right to debate it; and every other gentleman has the same right. Does the gentleman propose to repeal that standing rule?

MR. PHILLIPS. It occurs to me, sir, that the gentleman is laboring under a great misapprehension as to the object and purport of that resolution. It is not at all the object of that resolution, nor does it necessarily follow if it be adopted, that all debate will be cut off, or that there will be any gag law introduced. This Convention, last spring, here and at Jefferson City, introduced and acted upon a similar resolution. The resolutions introduced were referred to the appropriate committees, and when they were reported upon, then any gentleman who felt so disposed could discuss the subject matter contained in the report of the committee. It is for the purpose of expediting business, and not to strangle debate, that this resolution is introduced.

MR. HUDGINS. If this resolution is adopted, will it not render void two or three standing rules of the House? If this resolution is sustained, can a motion to reject, lay on the table, or postpone, be acted upon?

MR. PHILLIPS. I think the resolution will not conflict with either of those motions at all.

MR. HUDGINS. How can a motion to reject a resolution be entertained when your resolution expressly provides that it shall be referred?

MR. PHILLIPS. That it shall be referred without discussion.

MR. HUDGINS. Exactly, and of course you cannot postpone it.

MR. BIRCH. That is exactly what I objected to.

MR. WELCH. I arise to a point of order. The proposition is to repeal one of the standing rules of the House, and must lie over one day.

MR. BIRCH said the adoption of the resolution would not economize time. He desired, therefore, to offer his substitute instead.

MR. WELCH. I raise my point of order.

THE PRESIDENT. The point of order was not raised in order, as the gentleman from Clinton (Mr. Birch) had the floor when you rose to a point of order.

The substitute of Mr. Birch was then again read, and he proceeded to speak in reference to it as follows:

I feel, Mr. President, that those who are enabled to act well and wisely the part which pertains to them in the times upon which we

have fallen, may thankfully realize to themselves the fulfilment of the promise, that they have been "strengthened according to their day." Such a variety of opinions (mature and immature) seem to pervade the country—such a degree of indecision and consequent hesitation is observable in the pulse and conduct of many true but feeble friends of the Union—and so subtle upon the one hand, and so audacious upon the other hand, has been the line of policy against which we have been called to contend, that I have found myself, almost to the present moment, debating the question to my own judgment whether I should speak or remain silent during the session of this Convention. The message of the Governor, however, which has been delivered to us this morning, recalls us to duties too imperative to be overlooked, and I shall ask the indulgence of the Convention whilst addressing myself not only to their consideration, but to the additional measures suggested in my resolution.

I would that such a duty had more appropriately devolved upon another; but as I stand rather prominently accredited for having exerted myself during our last session (at the Capitol) to bring about such a modification of the original report of the committee as would permit the people of the State to pass upon our action at an earlier period than was at first proposed, would seem in rather an *especial* manner to devolve upon me to refer to my misjudged hopes in the *past*, and to commit myself thus early in the session to the most vigorous and vigilant measures for the future.

As part, therefore, of the history (however humble) of that mistaken past, I ask permission to read from a speech which I had the honor to deliver before the Convention on the 27th of July last, such paragraphs as will serve to denote our purposes and reliances *then*, but of which we have been alike disabused by the events which succeeded it, and which confront us *now*. The extracts:

"What I propose, then, is to intelligently and fairly submit to the judgment and decision of the PEOPLE the issues which have been raised with the Federal Government by the State Government, and that for our weal or our woe we all alike abide by that decision. Let the committee, in review of its original action, leave the judiciary as it is, but preserve especially so much of their ordinance as shall annul the military law, and its adjunct money and tax bills; and as these are understood to have been the measures upon which the

executive and legislative departments of the government fairly staked their political existence, and are now using them in their conflict with the Government of the United States, let the ordinance provide for the early and simultaneous election of new incumbents for these departments, conditioned, of course, upon its ratification by a majority of the people. We shall thus obtain the voice of the State; and if any man shall feel that it is for his pride too deep a humiliation, or for his ambition too great an impediment, to submit to the deliberate verdict of the *majority*, let him at least summon to himself the grace and the decency to go somewhere else, where minorities can at least more successfully *tyrannize* than they will longer be permitted to do here.

* * * * *

"For myself, if the question be fairly and fully submitted, (as I doubt not it will be, when the committee come to consider and perfect their report,) I will not only acquiesce in the judgment of a majority here, but if the majority of my State are even found *against* me at the election, I will *still* acquiesce, either by acting with that majority at home, or going away and leaving the contest to others. I ask but this of other men, in my district and my State, as the ground alone upon which our unhappy complications can find their solution without the shedding of neighboring, perhaps even of kindred blood! Who, I repeat the inquiry, will be found so *wickedly* devilish as to oppose himself to this?

* * * * *

"Surely, Mr. President, were I situated as the present Executive is, I could desire nothing more ardently than to be permitted to thus join in an appeal to the people of my State for the vindication of my measures and my conduct, and be thus either strengthened and confirmed in my position, as the result of the general public judgment, or be relieved from it entirely. Does he allege (as, of course, he does) that his measures have been taken in accordance with his best judgment of what was required by the interests and honor of his State? The verdict of the people at the ballot-box, as between himself and his competitor, will be but the judgment of his State, to which (as well as the whilom friend who thus speaks of him) he owes all he has and is, and for whose sake he ought to be as ready to lay down the duties of an office as he has been to assume them. Nay, more—he need not be a candidate at all; for unless our ordinance of deposition be ratified

by a majority of the voters, he will still be Governor; and so of all the rest."

Having reason to believe, Mr. President, that these and kindred views and sentiments, concurred in and enforced by the distinguished delegates upon whom we subsequently devolved the duties of Governor and Lieutenant Governor, were ultimately rather *acquiesced* in than assented to by the sterner judgment of perhaps a majority of the Convention, it need not, of course, be stated that we would be false and unreciprocal with respect to those who so deferentially acted with us *then*, were we in any sense to fail them in the alternative they then predicted, and with which we are confronted *now*.

What is that alternative, and *who is responsible for it*? Intending to answer these questions presently, it may be proper before doing so to place the ultimate action of the Convention upon the same ground in which I have placed my own; and in order to do so, I will read from its published address such paragraphs as may be sufficient for that purpose. After reciting and proving the treacherous and treasonable conduct of the Governor and other officers and servants of the State, which had constrained the Convention to temporarily depose them from office, the address proceeds and concludes as follows:

"These are the measures adopted by your delegates in Convention for the purpose of restoring peace to our disturbed State, and enabling you to select officers for yourselves to declare and carry into effect your views of the true policy of the State. They are measures which seem to be imperatively demanded by the present alarming condition of public affairs, and your delegates have determined to submit them to you for your approval or disapproval, that they may have the authority of your sanction if you find them to be adapted to secure the peace and welfare of the State.

* * * * *

"And now having stated the necessity for the action of the Convention, and the principles which have governed its action, your delegates submit the whole for your consideration and calm judgment. They have felt their own position and that of the State to be peculiar. They have looked over Missouri and beheld the dangers that threaten her. They desire to avert them. They desire to restore peace to all her citizens. They have adopted the measures which, in their judgment, gave the highest promise of peace and

security to all her citizens. If the measures adopted should have the desired effect, your delegates will feel that gratification which always attends the success of well-intended effort. If the measures should fail to restore peace, your delegates will find consolation in the fact, that they have done what they could."

And the ordinance of the Convention, for submitting its action to a vote of the people of the State, was and is in these direct and unambiguous words :

"*Be it ordained*, That at the election provided to be held on the first Monday of November, 1861, for the election of Governor, Lieut. Governor, Secretary of State, and members of the General Assembly, the several Clerks of the County Courts, or, in case of their neglect or refusal to act, the clerk of election, in making the poll books for the election, shall provide two columns, one headed "For the action of the Convention," and the other "Against the action of the Convention;" and if a majority of the legal votes given upon the action of the Convention be for the same, then the officers elected shall hold their offices as provided by the ordinance for their election; but if a majority of the votes cast as aforesaid be against the action of the Convention, then such election shall be null and void, and the persons so elected shall not enter upon the discharge of the duties of their offices, the officers chosen by this Convention shall go out of office, and the ordinance of this Convention providing for the abrogation of certain acts of the Legislature shall thereafter be of no force or effect whatever. The return of the votes so cast on the action of the Convention shall be made to the office of the Secretary of State in the same manner as is provided by ordinance of this Convention in regard to the offices of Governor, Lieutenant Governor, and Secretary of State, and the votes shall be cast up by the same officer; and when the result thereof shall be ascertained, the Governor appointed by this Convention shall, by public proclamation, announce the same, which proclamation shall be filed in the office of the Secretary of State."

Certainly, Mr. President, nothing could be fairer, more temperate or more deferential than all this. We did what we could, and "our skirts are clear" of what may follow. On returning to my constituents, the speech, address, and ordinance, from which I have thus quoted were freely circulated amongst them—fifty thousand copies of the latter having been ordered for distribution throughout the State.

How has it been met, Mr. President? What has been the response of that party who, whilst the bill for calling this Convention was pending before the Legislature, conceded to us all power, as "the representatives of the residuary sovereignty of the people"? What has been the "music" of that same party since it has been discovered that both the Convention and the people were inflexibly *against* them, and could be neither seduced nor awed into their purposes, as the Conventions of Arkansas and Virginia were? Most shamelessly prominent in this has been the course of their Governor, (as they yet call Jackson,) who, at New Madrid, proclaimed the State out of the *Union* a few days after we had deposed him from *office*; and this, notwithstanding he had previously put forth, in his flying proclamation from Jefferson, that this Convention was *alone* competent to change the relations of the *State* to the Government of the *United States*! Perhaps a party with such an acknowledged "*head*" ought not to be held to too rigid an account on the score of either political consistency or political morality; but their conspiracy to prevent the people from passing upon their conduct at the polls, and to wear them out and subdue them by the terrors of an insurgent *sword*, is a crime too patent to the most ordinary understanding to admit of either palliation or excuse.

As already stated, the action of this body, together with the reasons which actuated us, and the hopes that we might thereby achieve at least comparative peace at *home*, were scattered broadcast over the land some two months ago. Amongst my own people, whilst I had the satisfaction to learn that the course of the Convention met the concurrence of the Union men, there seemed to be from the commencement a concert of purpose between the organs and leaders of the secessionists to the effect that no *attention* should be paid to our action, except that the election which we had proposed as the touchstone of acquiescence in the decision of the *majority*, should at least be deprived of all moral significance, wherever it was allowed to be held at all. Even the holding of a public meeting in my own county, for the purpose of bringing forward a Union candidate for the Legislature, was countervailed and opposed by every grade of clamor and denunciation; and although the measures of intimidation which were resorted to were unsuccessful in that county, they have so far proved efficient in other quarters, that I hear of no *candidates*

even in other sections of the State. Who is responsible for all this, Mr. President? Not the "*Union men*," (anywhere,) for it is notorious that they have sought from the first—ever since this Convention was *forced* upon them by the malcontents of the Legislature—the arbitrament of the ballot box instead of the ultimatum of the cartridge box; but it has been at length denied to them not only by the clamor and the opposition of secessionists at home, but by a pronunciamiento from the army, as I will proceed to read in your hearing.

Mr. John T. Hughes, of my county, who signs himself "Colonel 1st Infantry, 4th Division," and who I suppose to be just as much a Colonel as our late President is a General, or Jackson a Governor, addresses "the people of Northwest Missouri," through the *Liberty Tribune* of the 13th ultimo, from "Camp Cedar," in a communication of more than two columns in length, from which, for the present, I desire to read only these sentences:

"This army, and the free people of this part of the State, regard the new Government set up by the usurpers at Jefferson as an absurdity. Gamble, and every other man who accepts office under the 'Provisional Government,' will be held as a traitor to this State, and if taken, treated accordingly. The question of right is not involved; every man of common sense knows that the Convention had no right to overthrow the old or to create a new Government; and they can only sustain their folly by physical force and by arms. No such elections as are provided for will be allowed to be held; and the 'ancient Government' of the State, and the legally elected Executive, and the abrogated laws, will be all restored!"

And in a communication made through the same paper of the following week he speaks as follows:

"The exiled soldiers are now returning, and this land will be drenched in blood, and widows and orphans be multiplied, and the wildest anarchy prevail, if there should be any attempt to support the Provisional Government of the traitor and usurper, H. R. Gamble, by force of arms. * * * * Let every true and patriotic citizen who loves liberty, and dares to maintain his rights, now rise and expel the tyrants, traitors and usurpers from our midst."

Forbearing further quotations from these martial fulminations, which abound with proverbial misstatements and immodest self-lauda-

tions, a very brief analysis of the sentences I have quoted will be sufficient to demonstrate that the "army" of which Colonel Hughes is a leader has determined that our unhappy complications shall *not* be submitted to the judgment and decision of the people. Had he written simply as a citizen, expressing his own wishes or opinions, it might not have justified the notice of the complicity of the army with the conspirators at home, to prevent the election which we ordered for the first of next month. He addresses it, however, as *from* the army—signs it *officially*, and causes it to be published in our district as an *incentive* to disorder and to bloodshed should the people attempt to exercise the great American prerogative of voting their sentiments at a State election! He proclaims in the name of that "army" that the election provided for by our ordinance of July last shall not be held; and in a previous part of the address, that "*all the material interests of the country shall be destroyed in the struggle*" unless the people of Missouri are delivered from what he both falsely and ignorantly affirms to be the tyranny and oppression of Federal bayonets—meaning thereby the restoration of Gov. Jackson, who has been indicted for treason, and for that reason has proclaimed the State out of the Union!

Such, Mr. President, is, very briefly, the programme by which those who trample upon the flag and the laws of the Union, as Col. Hughes and his army are doing, propose to ignore also the laws of the State, and to confront and overawe its ballot-box. So wholly unreciprocal and atrocious is such a purpose, that for one I could not believe it possible when we were last together at the capitol, and hence acted the part I did *then*, which has devolved upon me the duty of acting the part I am essaying *now*. I might notice, in this connection, the subsequent orders from subalterns in this same "army" to arrest citizens of my town and neighborhood for no other reason that I am aware of than that they were "Union men"—in favor of composing our complications by argument and by the verdict of the ballot-box; but I may, perhaps, more appropriately pass that rather *personal* development with the remark that it was not more ungenerous and unreciprocal to thus *attempt* the arrest of my friends and myself, than it was blundering and unmilitary to "cripple out of it," as the captain and his score permitted themselves to do. The result has been, that Union companies and battalions (armed since I reached this city, a few days

ago) now patrol, and preserve the peace, in the localities of the late encampments of our misguided and unappreciative adversaries. Enough, therefore, on that point.

To recur, therefore : The menace of the ballot-box, repeated thus from the "army" of the insurgents—the Union men as well as the secessionists in camps, or in arms, or driven from the State—no alternative would seem to remain but to repeal the ordinance by which we proposed to submit all questions of difference between us to the arbitrament of the ballot-box, and to properly strengthen the *military* arm of the State, which in our forbearance and our hopes we have already too long neglected. In doing this, we can all truly say, as our constituents can, that we have forborne the alternative of arms until impelled to it as a *last resort* ; and that whilst misguided and bad men were never more forbearantly dealt with than the disturbers of the public and the private peace have been dealt with by the just and loyal men of Missouri, so, on the other hand, never has a generous magnanimity and a truly *brave* forbearance been met with a more unreciprocal, and, in many instances, a more vulgar imperiousness. Representing originally an admitted majority of 80,000 voting men, every act of this body has been so performed as to propitiate the feelings of the minority, so far as it could be done compatibly with our paramount duties to the majority. For this we received no other response, after the close of our first session, than the most systematic and violent aspersions upon our motives and integrity—no slander being too vile and no menace too cowardly toward those who but stood firm to their pledges and their convictions. Little neighborhood meetings, at which less than a dozen would assemble, would pass resolutions of the most false, denunciatory and inflammatory character, and these would be published and republished, and by and by revamped and published over again as the voice of whole districts, in which it would be alleged that great "changes" had been wrought in the public mind, and that the delegates from the district had misrepresented the voice of the people. By and bye the Convention was called together again, and determined, amongst other things, that they would put these slanderers to the *test*, by submitting their entire action to the judgment and decision of the people—when lo ! the welkin is not only made again to echo with denunciations of the Convention on the allegation of again misrepresenting the people, but the "ly-

ing conspirators," both civil and military, determine and decree that the people shall take *their word* for it, and not be allowed to decide for *themselves*, in their accustomed forms, whether they will abide by the peaceful policy of the Convention, or restore the revolutionary regime of Jackson and the Legislature—Union and disunion ; for such would have been the effect of the vote upon our ordinance had secessionism have dared to accept the issue which was tendered to it.

We have no alternative, therefore, but to accept the issue which has been forced upon us—and that is, whether the *army* of Jackson shall be permitted to carry out the purposes which Col. Hughes announces for it, in *spite* of any thing the people may wish to say or do, and at the expense, if need be, of "*all the material interests of the State.*" Shall this insolent "army" be permitted to desolate the last homestead in the State—plunder the last granary and storehouse in Missouri—strip the last blanket and snatch the last morsel from shivering age and tender childhood, (sane or insane)—and for *what* ? What have the loyal, law-abiding citizens of Missouri been guilty of that "*all their material interests, together with life itself, should be thus menaced by a military pronunciamiento* ? Alas ! Mr. President, the men and women thus imperilled by an insurgent army have done no more than to plead for the Government and the laws of their fathers, and oppose themselves to the conspirators who have banded together to establish in lieu thereof a government of the *sword* and *by* the sword. Having thus unavailingly exhausted expostulation and argument, what else remains for us to do as the representatives of a people thus virtually denied the rights to which they were born—the right to *vote*—but to furnish them with arms for their *defense* instead of ballots for their suffrage ? Is it not but too painfully apparent that we are at the end alike of our hopes and our prayers for *peace*, and that the man who will not fight *now* is not only *unworthy* to vote, but fit alone to "*fetch and carry*" for the military usurpers and despots, who will permit the people of their State to have neither repose, prosperity, or even *home itself*, except upon terms of the most passive and degrading submission ? Thank God I see but one purpose beam from the countenance of this Convention and this assembly, and that is, that we answer back these military marauders and all who espouse their cause ; and in the name of the brave and loyal men and women whom we

have the honor to represent, and in the name of this great and loyal State, upon this floor, we bid them *welcome* to their carnival of desolation, and will be "on hand" at the proper "times and places" to see how they *acquit* themselves of the pirate vaunt thus insolently addressed to Missouri men, on Missouri soil, who are guilty of no other offense than the purpose of resisting the further desecration of their laws and their hearthstones, under a foreign flag—the insignia of a foreign government—of which more hereafter.

If Mr. Hughes and those whom he mendaciously denominates his "exiled soldiers" shall attempt for this or any other pretended cause to "multiply the widows and the orphans of the country" and to "drench the land in blood," I trust I need scarcely promise that there are men of his own county (and mine) who will at least test their ability to thus *defy* the laws of the land, organized as we will be under an ordinance which will make it our duty to "enforce these laws." Prominent amongst these will be the ordinance of this Convention, already passed, to repeal the tyrannical military and tax laws of the last Legislature—the latter of which Mr. Hughes and many of his party friends are at least quite as unable to meet as any other class of our citizens are. It may be said, indeed, without impropriety, that to the leading men of Mr. Hughes' "army" the postponement of official process in this respect, and in the mere every day respect of the collection of debts, is even more *generally* indispensable than it is to their adversaries; and as these will probably constitute the leading measures of the "Provisional Government," so uncompromisingly denounced by the colonel, it may safely be commended to him and his friends to pay their *own* debts and taxes before inaugurating any further opposition to the Government which postpones them. If, however, disdaining counsel so natural and so opportune, he shall drive the "Provisional Government" to the necessity of upholding itself and its ordinances by "force of arms," he may inaugurate his reign of "anarchy" if he *can*—taking the consequences of it as he *shall*. And so of all others, Mr. President, of whom Mr. Hughes may be a specimen, a leader, or a guide. I undertake to say, in my place here, that the laws shall be "enforced" and not defied; and that all who oppose them shall be appropriately punished if they remain within their jurisdiction. And that is all that need be said, or that a proper self-respect will permit a member here

to say, in respect to the colonel's denunciation of our alleged "usurpations," except it be to commend him to the speeches of the *generals* of his army, who, in advocating the passage of the law under which we are here assembled, conceded to us all the power we have ever exercised, and more than we now *propose* to exercise. In addition to this, the country has not failed to note, that in leaving undisturbed the organization and incumbency of the supreme *judicial* tribunal of the State, we have given the highest practical evidence, not only of the sincerity of our convictions, but of the *more* than fairness with which we have treated the Governor and all others whom we have felt it our duty to depose. If any of them shall suppose, with Col. Hughes, that we have usurped authority with which we were not duly invested, they have but to appeal to a court of their political friends for all necessary redress. It comes to this, then, Mr. President: that whilst what may not inaptly be styled "the Convention party" in this unhappy controversy are ready, as they have ever been, to submit to the decision of the courts or the people, the insurgent secessionists are unwilling to submit to either! Who, then, can longer doubt, upon a record and upon reasoning thus significant and decisive, that our late Governor is using and abusing the functions of which we but rightly divested him, simply to promote the interests of the "*Confederacy*," and without the *slightest* idea of ever again being the Governor of Missouri unless he can *bully* her out of the Union in opposition to her will, and loaded with "scrip" and with "war claims" which would constitute an *irredeemable* mortgage upon every man's farm in the State? Let God and the people decide between us, and give success to the cause and to the arms of the true and the just.

I shall hence vote for such amendments of our military law (or ordinance) as may, the better adapt it to the exigencies which have been forced upon us, and for such appropriations of money as to more promptly supply and pay the brave and loyal men who gather around the flag of *Missouri* (interwoven with that of the Union) in contradistinction to the flag of the "*Confederacy*," and this leads me to dwell for a moment upon the more prominent *unfolding*s of secessionism in *this* State as contradistinguished from its leading dogma in the *seceded* States, of which I may have more to say upon some subsequent occasion. If there be any truth or soundness in the great foundation *principle* of secessionism—namely, that the people

of each State, through a Convention such as this is, have the right to decide upon the political *status* of that State—it follows as a consequence inevitable as reason itself, that the same argument which transfers the *seceded* States to the Confederate government, absolutely shuts Missouri out from that government. We, too, have had our Convention, meeting and adjourning just as Arkansas and other States did; but, unlike Arkansas and others, we did *not* betray our constituents by smuggling our State into the “Confederacy,” and so *tying* her there (as Virginia was tied), that the people had no practical alternative but to submit. We determined, in short, to remain *in* the Union—a resolve which even Gov. Jackson (whilst he was Governor) could not summon to himself the hardihood to question in the slightest, but the exact reverse. Conceding thus our exclusive authority to either absolve or maintain our relations to the Government of the United States, what have we *since* seen, and what do we *now* see? We have seen the same Governor, after travelling through Arkansas to Virginia, return through Tennessee—procure there a “body guard” with which to enter his own State—when, after venturing as near to his capital as New Madrid, he issued a proclamation calumniously denouncing the action and the members of this Convention, and, instead of *joining* us in the appeal which we had made to the decision of a common constituency, declared the State out of the *Union* five days after we had declared him out of *office*! I know that the delegate from Andrew, (Mr. Hudgins,) whom I wish I could as appropriately call my political as I can my personal friend, —

MR. HUDGINS. You can when you are *right*.

MR. BIRCH. Whilst I would give much to be “*right*,” even in the sense of my friend, I would give much more if he were *right* (as I trust he may yet be) in the sense of this unhappy controversy. But to proceed: I know that that astute lawyer and politician even *ridiculed* the idea of Gov. Jackson being able to “draw” or “carry” Missouri out of the Union—declaring in a speech which he delivered to us at our last session, that “no man in his senses would *presume* he had any such power”—and in that I concur with him, and trust he yet concurs with himself. But has it not been upon the power thus insanely or most wantonly *usurped* that he *has* presumed to “carry” us out of the Union—repudiated our reference to the ballot box—and by an arrangement most atrociously entered into with the Confederate

Government at Richmond, transferred the war of the Mississippi to the soil and the corn fields of Missouri, in the very face of the *record* protest of her Convention and her people? From the same place, Mr. President, in the southeastern corner of our State, a Confederate General, whom all true Missourians must regard with the indignation which is due to an insolent armed invader, had the presumption to issue a proclamation, in which he stated that he was amongst us with his army “at the instance and *request*” of Gov. Jackson; and the original President of this Convention, who not only voted with the rest of us that he would *not* secede, but, also, that we would adjourn to meet again upon his own call, (as ex-officio chairman of the committee appointed for that purpose,) should it become necessary in order to circumvent or *counteract* the more than whispered trickery and treachery of Jackson—even that man (honored and trusted by us as he had been)—subsequently found it in his nature to *coalesce* with Jackson, and to lead and to deliver a Missouri army to *another* Confederate General, of a lower grade than himself, who directly afterwards flew the *flag* of the Confederacy (not *blended* even with the flag of the State) from the captured city of *Springfield*, in the betrayed and dishonored State of *Missouri*! It remained, therefore, but necessary for McCulloch to denounce such men as we are as “enemies,” (as in his proclamation he did,) in order to vindicate what secessionism denominates “the sovereignty of the State!” As this, however, is but a sample of their want of sincerity in all things else, he who cannot *now* see in the manner of the war they are keeping up in Missouri that it is for the purpose alone of keeping it out of the *cotton* States, may well be permitted to indulge the dream of the dupe who supposes the object of all this *delay* to be the restoration of Jackson! If this were so, why not *drive* out the forces of the Federal Government, and restore Jackson *now*? Will he *ever* be numerically stronger, or even as *strong* again, as he was at Lexington, and is now, when he is again running *from* his capital, instead of pressing towards it? The truth is, Mr. President, and we know it, (and every one else *ought* to know it,) that Jackson is but a tool in the hands of the Confederacy, and that he dare not return to his capital, or anywhere else where he can be reached by judicial process; and that in playing the part to which he has so ignobly and atrociously consented, he is but redeeming his pledge to “carry his State to

h—ll, unless he could carry her out of the Union." But for his stealthy, deliberate and persistent treachery, Missouri had been to-day the most quiet and prosperous State in the Union. His declension to furnish troops to the President had been overlooked; and but for the unnecessary reassembling of his Legislature, and its secret and treasonable preparations to resist the rightful authority of the General Government, the melancholy incidents of the necessary capture of Camp Jackson would have furnished no pretext for his subsequent attempts at double-dealing with Harney and Lyon—all of which are at length fully understood and appreciated in the light of his exhumed letters to Walker and Tucker. Committed to treason whilst pretending loyalty, it is but natural to presume that it was whilst smarting under the quiet yet steady distrust of the true and sagacious Lyon he uttered the blasphemous pledge already alluded to—to carry his State out of the Union or carry her to h—ll! He issued his proclamation accordingly; many were deceived by it who at length begin to understand and become tired of the whole matter; and he has yet but so far succeeded in carrying his State toward the receptacle of all things as base as himself, as to have constituted the southern part of it the *camping ground of thieves and traitors*. It is these, and such as these, that we propose to so far co-operate with the General Government as to either expel or destroy. Beyond this we never proposed to go; beyond this, indeed, we have no right to go, unless our regiments were to volunteer into the more general service of the United States; and this, in my poor judgment, it would be neither wise nor expedient to do. To vindicate and maintain at once the sovereignty and the loyalty of our own State, and afford thereby the protection of the law to all its citizens, will doubtless be regarded as sufficient in this contest for the honor and the arms of Missouri.

In respect to that portion of my resolution which looks to the abrogation of many useless offices, by which, according to the information I have received upon the subject, we may work a yearly saving to the State and the people of more than \$50,000; and in respect to the reduction of official salaries, at a time when all other things are reduced in price accordingly, and by which there will be saved to the treasury more than as much more; such measures not only speak for themselves, but illustrate the difference between an executive who is no poli-

tician, and one who became Governor purely because he was a politician, and a most adroit but dishonest one at that. It may not be inappropriate in this connection to express the hope that neither Governor Gamble, nor either of the other distinguished citizens whom we associated with him in the administration of the executive positions which we found deserted by those who had betrayed the people and hence fled from their presence, will resist what I trust and believe will be the unanimous desire of this body to continue them in the public service during this trying exigency. I feel assured that the country is satisfied with them; and I know I speak the voice of my own more immediate locality, when I add that their declension to longer serve in their respective positions would be regarded with much regret.

The suspension of coercive proceedings for the collection of debts and taxes is also within the prerogative of this body, except in so far as it may be controlled by the Constitution of the United States. I agree with those who conceded to us *all* power (not limited as above) while the bill providing for our election was under discussion in the two Houses of the General Assembly—having had no occasion to eat my own words as they and their partisans have since eaten theirs—and hence have no hesitation in saying that what seems to me to be so imperiously demanded by the exigencies and the interests of the people should be carried out by the delegates of the people. These measures of relief should of course be general—applying to all who owe debts or taxes, whether great or small, and whether cognizable before the higher or the lower courts, or under deeds of trust—all alike should be left as nearly as possible in *statu quo* during the period of embarrassment and distress which has been brought upon the country by the insane attempt to break up the Government—the but natural prelude to the destruction of society and the general ruin of the people. If this postponement of the mere statutory right to enforce contracts shall subject us, in any sense, to the criticisms of those who (for a purpose) shall refer us to the provision in the Federal Constitution which restricts a State from impairing them, we can at least reply that we gave the benefit of our doubts to the unfortunate and oppressed, who are summoned in the exigency of the times to the defense of their State instead of the collection of money; and if, as already intimated, we thereby save those who have been the authors of our misfortunes, as

well as those who are the *subjects* of them, we shall be but fulfilling the Scriptural injunction of thereby heaping upon them "coals of fire."

Leaving, therefore, the mere details of these measures to the appropriate committees, a few general reflections will conclude all I have desired to say at present. Finding some diversity of opinion amongst gentlemen as to the course which should be pursued in respect to the public officers of the State, I would very deferentially submit, as a legitimate common ground for all, that we simply provide, by ordinance, that on or before a given day—say the first day of December next—each public officer or servant of the State, from the highest to the lowest, (including the banks and other moneyed institutions, with their several officers and directors) shall cause to be filed in the proper office an oath of allegiance and fidelity to the Government of the "*United States*," in its controversy with the "*Confederate States*," or in default thereof that his office, employment or agency shall be regarded as vacant, and filled by appointment or election accordingly. I doubt not my distinguished friend from St. Louis, (Mr. Wright,) who is now so honoring me with his ear, can, (notwithstanding his dissent from the assumption and the *policy* of the administration, in much of which I agree with him,) without much trouble to himself, so draft an oath as to search at once the conscience and the pride of the most sinuous adversary of that Government—reaching and comprising all such "mental reservations" as sometimes confront us on the part of those who purposely or unwittingly fail to discriminate between the *government* of the country and its *administrators* for the time being; and I am sure that no man should complain, if unable or unwilling to take such an oath of assumed fidelity to the Government, that he should be required to vacate his office *under* that Government. Of course in such a presence as this it is unnecessary to repeat the relation of every citizen and every officer of a State to the Government of the *United States*; so that if there be (as there doubtless are) those in office who cannot consistently make and file a sworn declaration such as may be here prescribed, the opinion need scarcely be repeated that another should be found who can—the punishment of perjury (as well as treason) to be annexed in either and in every case.

A somewhat similar course in respect to those who are said to be now returning from

the insurgent army might be productive of similar consequences, both to the State and to many of its citizens, who, having been misrepresented and misled in the past, may wish to live in peace and loyalty in the future. Let them do so, upon laying down their arms, and filing with the records of their county, a declaration and an oath of similar import. When I remember how the young and impulsive (especially) have been misrepresented and overreached by those in whom they confided, perhaps but naturally, I feel that I should fall short of the duty of a Christian citizen were I not rather to seek to reclaim and to save them, than to punish them for doing what many of them were brought to believe they *ought* to do. Take, for instance, the case of a company which was raised in the south-eastern corner of my own county—the proceedings preliminary to which I will read to the Convention as a specimen of the mendacious misrepresentations of the secession leaders all over the State—and for one I feel that I have not the heart to punish either boys or men (if they can be otherwise reclaimed to society and to peace) who were thus imposed upon, especially by *preachers*. I read from my county paper of the 9th of May last (since defunct) as follows:

PUBLIC MEETING AT HAYNESVILLE.

"At a meeting of the States' Rights party at Haynesville and vicinity, Saturday, May 4th, 1861, on motion Col. Mason Summers was called to the chair, and Dr. J. D. Wallis elected Secretary.

"After the Chairman explained the object of the meeting, Prof. L. M. Lewis was introduced to the audience, and made an able, spirited and logical speech in behalf of Southern rights, for which, on motion, the thanks of the assembly were tendered.

"The following resolutions were then offered by Judge J. R. Coffman, which were unanimously adopted:

"*Resolved*, That we owe no allegiance to the Government now headed by Abraham Lincoln and W. H. Seward, commonly known as the United States Government, or any other government that recognizes the equality of the negro with the white man.

"*Resolved*, That we, the citizens here assembled, feel ourselves identified with our brethren of the Confederate States in common feelings, rights and destinies, and we hereby pledge to them our united action in vindication of the same.

"*Resolved*, That the duty and honor of Missouri imperatively demand that she should secede and take her position with her sister Southern States, and that we pledge ourselves to use our utmost endeavors to secure that result.

"*Resolved*, That we tender thanks to the patriotic ladies of Haynesville, for furnishing us with a Confederate States flag, under which every true son of the South can rally and defend their sacred rights.

"*Resolved*, That the resolutions and proceedings of this meeting be published in the Northwest Reporter, a newspaper which has always vindicated the rights and honor of Missouri under all circumstances.

"On motion of T. M. Scruggs, Jr., it was ordered that the Clay County Flag be added, which was accepted.

"After which there was a company of the young men raised, subject to the order of Gov. Jackson, to defend the State.

M. SUMMERS, Chairman.

J. D. WALLIS, Secretary."

Now, Mr. President, amongst the comparatively few who read and reflect enough to distinguish between truth and falsehood, it is of course unnecessary to denounce this first resolution, which was used as a *driver to all the rest*, as being mendaciously and unqualifiedly untrue from beginning to end—the *falsehood* having been doubtless invented as an excuse and an incentive to the *treason*, and the only means, perhaps, of filling up a company for Governor Jackson and the *Confederacy* in opposition to this alleged equality of the negro and the white man, under the Government of the *Union*. I have elsewhere characterized this falsehood as *audacious*—eminently and *wickedly* audacious—since not to have known in May last, that Mr. Lincoln's Inaugural Address, (to say nothing of the subsequent and almost unanimous resolve of Congress,) had given the lie in the *amplest* sense to all such mendacious aspersions, was to absolutely *disqualify* a man from saying anything upon the subject, much less to adopt or manufacture so malignant a deception—the very *REVERSE* of truth. It was brought forward and indorsed, however, by a County Court Judge, a doctor and two preachers—(one of my own denomination and one of that of my friend from Andrew)—the young and the uninformed were inflamed to believe it, and hence but naturally took the side of Jackson, whom they were made to regard as but

gallantly asserting the superiority and the dignity of their *own* race, in opposition to the doctrine of "*negro equality*," so calumniously ascribed to Mr. Lincoln. Some of these boys I know, and the fathers of some I know, as amongst the most respectable, however misguided, citizens—and for these I would even yet a little longer forbear and plead. Some of them, I fear, will continue with Col. Hughes in his pirate raid upon our "material interests;" and such, of course, must be confronted and punished accordingly.

If there be others, however, as I believe there are, who have either returned, or who may return, in the more patriotic relation of resumed good citizenship, let them be permitted to join with us again in the *protection* of society, instead of its' destruction; and let us so proclaim it, and so make it good.

For the present, Mr. President, I will not further weary the Convention than to add, that if this war, which both Congress and the President have so solemnly declared is *not* waged with a view to overthrow or impair the institution of slavery, but simply to assert and restore the wonted authority and dignity of the Constitution and Government of our fathers—if by any future possibility, assumption, or misadventure, the controversy shall degenerate on the part of that Government even in the *direction* of negro equality, or negro emancipation, or even negro *insecurity*, I will be amongst the first and the loudest to denounce, and contribute to overthrow it. Born to the inheritance of the institution, my record will show how I have stood for it in the past, as I stand for it to-day, and shall in all the future. I will not, for that reason, however, either stultify my own integrity, or imperil the institution itself, either by the invention or the indorsement of an exasperating *FALSEHOOD*; and as that constitutes my sole offense with those who *have* done so, I shall expose and defy them in the future as I have in the past. Standing ready, as I have ever done, to submit the questions in issue to the judgment and decision of the people, and to thus terminate the controversy on my part by the verdict of the ballot-box—reiterating thus the voice of this Convention, and the voice as I doubt not of those who sent us here—it remains of course with the Secession leaders and the Secession "army," to either permit a full and fair election, or to continue to despoil us of "our material interests," as they have vowed they will do. Upon them, therefore, will continue to rest the re-

sponsibility of having brought upon the country all its present calamities, as well as all its prospective horrors, and of them, and to them, I repeat and indorse the immortal speech of HENRY CLAY, as follows :

"If any one State, or any one portion of the people of any State, choose to place themselves in array against the Government of the Union, I am for trying the strength of this Government. I aim for ascertaining whether we have a Government or not—practicable, efficient, capable of maintaining its authority and upholding the powers and interests which belong to a Government. Nor, sir, am I to be alarmed or dissuaded from any such course by intimations of the spilling of blood. If blood is to be spilt, by whose fault is it to be spilt? Upon the supposition I maintain, it will be the fault of those who choose to raise the standard of disunion, and endeavor to prostrate the Government. And, sir, when that is done, so long as it pleases God to give me a voice to express my sentiments, or an arm, weak and enfeebled as it may be by age, that voice and that arm will be on the side of my country, for the support of the general authority, and for the maintenance of the Powers of the Union."

It is thus, Mr. President, that I, too, would live, or peradventure die. It is thus that I, too, regarding the liberties of my country as inseparably interwoven with its constitution and its flag—which with all its soils, whether real or imaginary, I still prefer to any other flag—adopt as the conclusion and the sum of what I feel I have but too imperfectly enunciated, the apostrophe of one of our most fervid patriot poets, when invoking alike the benedictions of Heaven and the maledictions of earth, he prayed for the flag of his fathers as I pray—

"God guard our flag, and make each star—
Each stripe more bright than now they wave.
Still make it lead our ranks in war,
Still float above each patriot's grave!
Death to the traitor that would dare
To trail it through the dust of shame;
All honest hearts its lot will share
And follow it to Death or Fame."

At the conclusion of Mr. Birch's remarks, Mr. McFERRAN offered a resolution, that the several subjects contained in the Governor's message be referred to the appropriate committees. Adopted.

On motion of Mr. WRIGHT, the Convention adjourned.

THIRD DAY.

SATURDAY, October 12, 1861.

Met at 10½ A. M.

Prayer by Rev. Dr. NELSON.

On motion of Mr. HALL, of Randolph, Mr. Pomeroy had leave of absence for Monday.

Mr. WRIGHT obtained the floor, but gave way to Mr. Breckinridge, who moved that the rules be suspended to allow Mr. Hendricks, from the Committee on Elections, to introduce the following bill :

AN ORDINANCE PROVIDING FOR CHANGING THE TIME OF HOLDING CERTAIN ELECTIONS.

WHEREAS, This Convention did, during its session at Jefferson City, on the 30th day of July, A. D. 1861, adopt an ordinance providing for the election of certain State officers, and also an ordinance providing for submitting its action to the people of the State of Missouri, and appointing a time therefor; and

WHEREAS, It is manifest that, by reason of

the disturbed condition of the State, it will be impossible, at the time so appointed, to elicit a fair expression of the popular will; therefore,

Be it ordained by the people of the State of Missouri, in Convention assembled, as follows, to-wit :

First—That so much of an ordinance entitled "An Ordinance providing for certain amendments to the Constitution," adopted on the 30th day of July, 1861, as provides for the election of a Governor, Lieutenant Governor, Secretary of State, and members of the General Assembly, on the first Monday of November, A. D. 1861, and so much of an ordinance entitled "An Ordinance for submitting the action of this Convention to a vote of the people of Missouri," adopted on the same day, as provides for submitting the action of this Conven-

tion to a vote of the people on the first Monday of November, A. D. 1861, be and the same are hereby so modified that said elections shall not be held on the day therein named, but instead thereof shall be held on the first Monday of August, A. D. 1862.

Second—Said elections shall, in all other respects, be held and the returns thereof made as provided in the ordinances heretofore adopted by this Convention.

Third—The Governor, Lieutenant Governor, and Secretary of State, heretofore appointed by this Convention, shall discharge the duties and exercise the powers which pertain to their respective offices, and continue in office until the first Monday of August, A. D. 1862, and until their successors are duly elected and qualified, or until the qualified voters of the State shall disapprove the action of this Convention.

Mr. HENDRICKS moved that the bill be laid on the table and printed, and made the special order for 4 P. M.

Mr. WELCH intimated that this motion would be taking advantage of Mr. Wright (who was entitled to the floor).

Mr. BRECKINRIDGE said such was not his intention at all. He believed, however, that by the rules speakers were limited to one hour.

Mr. BIRCH hoped the bill would be made the order for Monday.

Mr. HENDRICKS, at the suggestion of Mr. Breckinridge, withdrew his motion.

Mr. GANTT said some reference had been made to the hour rule. That rule was not enforced yesterday, and he wished to know whether it was now in force?

The PRESIDENT subsequently decided that the hour rule was in force, but he forgot to enforce it yesterday.

Mr. WRIGHT again took the floor. After reading the resolution offered by Mr. Birch yesterday,

Mr. WRIGHT said: Sir, it may be useful to inquire not only what the present condition of the country is, but the cause of that condition. This first resolution implies that something has transpired since we last met, demanding a total revolution of what the wisdom of this body then resolved to be right. At that period of time, when this Convention forcibly took hold of the power, and exercised it in a series of restrictive and rigorous measures, vacated offices, deposed the General Assembly, repealed laws and enacted laws, the condition of the country was not materially different from what

it is now. Then we had civil war—Federal troops held possession of the Capitol—the *de facto* military Governor had seized the archives of the State. There was social-civil war, as it has been called, in spite of the seeming paradox—the State Treasury was in possession or under the control of Federal officers—Secession bands and marauders were all over the State—Northern Missouri, and other portions, were infested by them, as was said—two armies, one Federal, and the other State, occupied the Southwest. In this condition of things you resolved upon an election by the people in November, and apologised for postponing it to that period. Your apology is in these words:

“Your delegates desire that you shall by election fill these offices by persons of your own choice; and for this purpose they have directed, by ordinance, that an election shall be held on the first Monday in November. This time, rather than one nearer at hand, was selected so as to conform to the spirit of the provision in the Constitution which requires three months’ notice to be given of an election to fill a vacancy in the office of Governor.”

This Convention wished then to harmonize its action, whatever might be its character, with that provision of the State Constitution which requires a notice of three months to be given of an election so important; but now this Convention comes here, and you are asked, through the recommendation of the Governor, and by the resolution of the gentleman from Clinton (Mr. Birch), to take from the people the right to exercise that very power which—and I say it respectfully, of course—you have usurped. Of course, there must be some apology for this conduct, and it is found in the distracted condition of the country. Was it not distracted before? When you made your resolves—when you expelled the Governor of the State from his office and put in one of your own choosing—did you not know that the country was in a distracted condition? that civil war was raging in our midst—a war of the worst character, because of its social characteristics? Ah, gentlemen of the majority, you will find that the action you now propose, if carried out, will only be another source of irritation in this State; and that brings me to look at the actual condition of the country. Is it worse than before? If so, then the inquiry with me is as to the cause why it is; and let me ask if your own action has not contributed to this very exasperated state of things? I say it is your own action that has helped to

make up the unfortunate sum of our national troubles—that has helped to localize the disaffection and disloyalty in the State, and to extinguish and deaden in the hearts of men their loyalty to the Constitution of the United States. Look at the condition of Kentucky two months ago, and look at it now, and you see the same causes at work, induced by that inexorable logic which has produced the same consequences everywhere. Had you not foresight enough to see that your election could not be held? And yet you went ahead. What was the relative condition of the country then? Were your prospects better for a fair election *then* than *now*? At that period of time North Missouri was infested by secession bands, and it is now proclaimed to have been cleared of them; and we are to-day in equally as good a position for testing this matter at the polls as at the time of the action of this Convention at Jefferson City. Judging from all the sources of information allowed to us, through telegrams under military surveillance, and through the press, which can only speak one side—through these sources of information we learn that these secession gentlemen are retreating, and backing out of the State; and that the indomitable and valiant Fremont will send them all into Arkansas in a short period of time. This will be the inevitable consequence of a grand and systematic arrangement—grand and systematic, according to all the indications which have been given out through those oracular and veritable things called telegrams; and in those veracious prints which always speak the truth—because no prints are allowed to speak anything but what is true; they are all alike under this military surveillance, and no man under this system of things can, by any possibility, publish a lie—and it is a source of consolation to know that there is a universal, supreme, and uncontrolled dominion of truth in this State, so far as the public press is concerned. Through all these sources of information we are told that these secession gentlemen will be driven from the State.

Well, one would suppose that this would help your election in November—for you were not sure that the secessionists would be driven from the State, or that the presses would be compelled to speak the truth when you made your resolves at Jefferson City. But there is something more than this. Let me guess what it is. And while I want to be respectful, like an old justice of the peace in Virginia, when I joke, I joke as near the truth as possible.

Hav'n't you found out that the people will not sustain your action in November? Hav'n't you discovered that there is no chance at the polls, and that they will proclaim their voice against you in November? Don't you *fear* that?—don't you *know* it? Look at this Convention—where are the ninety-nine members who met here last spring, and the large number that met at Jefferson City? Now, but little more than half the body are here. What has become of the rest?

MR. ORR. They have been arrested for treason.

MR. WRIGHT. Then why don't the people insist upon sending loyal representatives. I think, however, that the admission of almost every candid man would be that not only the representatives but the constituents are traitors.

Only half of the Convention, I have said, is here, and some of the men who are here—and I say it with all due respect—are refugees from their constituents. Here is this body, dwindled in size, called upon to seize hold of the power and wield it in the most rigorous and stringent manner possible. Mr. President and gentlemen, you may think I speak boldly—I have no chance to write or publish my views—but while I hold a place on this floor, so help me God, I will speak the free thoughts, which I would not surrender for a throne! [Applause in the lobby.] I did not object to applause on the other side, but I trust there will be no such indications while I speak.

Vice President WELCH in the chair. The Sergeant-at-Arms will clear the lobby unless order is preserved. I can have no cheering on either side.

MR. WRIGHT. Yes, sir, some of us, as I said, are refugees; and some may say that I do not represent my own constituents; but one thing is certain—I have never fled from them. If the issue can be raised before my constituents, whether they approve or condemn my course, and the military power will permit me to speak my vindication, I can be sustained by 3,000 majority. But if I attempted to speak my sentiments I should be put in the negro yard or the Arsenal. If they can suppress a press and abolish the types of a paper, the views of which are antagonistic to their own; if they can take from men the right to read what they choose, and will not permit us to discriminate in our reading as to the right and wrong, but will permit us to read only what the military men may think wholesome, why should they permit me to speak thoughts they

do not think wholesome likewise? Now, don't you suppose that I am a secessionist, or that I am upholding Jackson in this war. God forbid! Nor don't you suppose that I think Jackson can take this State out of the Union, or that the State Legislature or that the Confederate Government can. I defy all of them to do any such thing. Nothing but the will of the people of the State can bring about such a catastrophe—for it would be a catastrophe. Some gentlemen cannot understand my course, and say that my patriotism is not worth anything. It may be so; but I want this body to consider whether or not the measures you propose are going to allay the excitement or exasperate it; I want you to reflect what will be the result of your action upon the popular mind of your State. You seem already to have given up all Federal relations—although we were originally called specifically to pass upon those relations—seem to have lost sight of them, and are directing all the energies of your minds, doubtless as you think “wisely as” honestly, for the purpose of remedying the evils in the State. Now, I want you to consider whether your measures are calculated to allay the excitement. I think that history has spoken uselessly, indeed, if it does not teach us this lesson, that the life-blood of liberty is in the supreme and uncontrolled dominion of law. That is the lesson written in fire and blood through the histories of all nations. Since the time when history was first recorded, whenever men have thought great thoughts, or have suffered great deaths, in behalf of a common humanity and the rights of men, they have sealed with their blood this everlasting truth, that liberty can exist only under the supreme and uncontrolled dominion of law.

Now, let us see what is our condition; let us see how we can have so much disloyalty in the State. Is there one man in this house to-day who considers himself a free man? If there is one, I am glad; but, so help me God, I do not consider myself a free man, because I am deprived of those rights which I consider so essential to liberty. What did our fathers make the Constitution for except to limit power? Why did they so carefully put the weights and balances into that instrument? If they had wanted a despotism to arrest men, they would have had it. The most complex of all governments is a government of liberty, because it must be a government to restrain and place limits upon power. Who is there in this land that can rise up and say, “I am

above the Constitution of my country?” Yet men do so; for is it not the truth that martial law, in an unproclaimed State—and lawyers will understand what I mean by that—in a State which no proclamation has ever reached—that military power has declared the universal reign of martial law over the whole country? What is martial law? Is it not beyond and above the Constitution? Is it not *supra*—to use an expression of my distinguished colleague, Judge Gamble? Does not every man know that martial law overrides the Constitution of the country, and places your liberty and my liberty within the discretion of the soldiery? Are you content to believe the people will not show disaffection, and will not feel exasperated when it is given out that martial law reigns over one million and a half of people, and that, too, by the simple fiat of a military satrap in this valley of the Mississippi? Is it not his edict, or ukase, that puts us all under the dominion of martial law, so that my liberty and yours depends this day, not upon any constitutional guarantees, but upon the wise and sound discretion of a soldier? The people of this State can see that condition of things, and hence trouble arises in regard to the military bill of 1859. That bill is an excellent bill. I have a right to say so, because it received the speedy and unqualified approbation of a majority of this body, when it was much more fully represented than now, at Jefferson City. You picked it out and put it forward as the great panacea for our ills. I do not know where the defect lies. It has not been pointed out by the Governor. He says the bill is inefficient; but I do not know what the specific vice of the bill is. It may be in the bill, and it may be out of the bill—it may be because the bill is defective, and it may be because the subjects upon whom the bill is to operate are not harmonic with the purposes for which the army is to be raised. Do you think men are going to rally spontaneously and help to sustain a cause that prevents a man from reading, at his own fireside, what he thinks right in the shape of a paper? For have we not been accustomed from birth—did we not learn it at the hearthstone—imbibe it with our mother's milk—to the right to speak, read and publish what we chose? Now, the farmer in the country thinks and reads what he chooses. God Almighty gave him the power to discriminate between the right and the wrong, and the Constitution of the country does not change the nature of man; but our Government allows

a man to think evil and to read bad doctrine, but it supposes he has power enough to discriminate between the right and the wrong, and moral courage enough to pursue the right and banish the wrong. And yet I cannot read a paper unless a military officer permits me to do so. It does not hurt him to read it. He can read false doctrines and inhale nothing innoxious from them; but nobody else can. Will you draft? I do not know how it will turn out, but I do not think you will get a free people to exhibit much valor on the battlefield, who are dragged there to fight in such a cause. I do not think you can compel men to fight for such a cause; and I think if it is done, it must be done at the sacrifice of the essential principles of American liberty.

Mr. President, I hold it as true as any principle in mathematics, that the suppression of one paper enslaves all the rest in the country, and at the same time enslaves all the readers, because it denies to them the right of selecting and discriminating what they would read.

We have had martial law proclaimed since we sat before, and its promulgation, it was thought by those who established it, would help the election which this Convention proposed should be held when we sat last. Mr. President, I trust that some of the principles of the Constitution, although broken down every day, and nowhere more so than in this unhappy State, yet live in the memory of the members of this Convention; and one of those principles is that of the freedom of the press—that it shall never be abridged even by Congress. Why, Jackson himself, when he established martial law at New Orleans, and took a man up for publishing something in contravention of martial law, had him brought before a court martial composed of officers of the United States, found that court declaring they had no jurisdiction to try a civilian under the Constitution of the United States. They refused to try him upon the charges that were made against him except one—that was being a spy. They had the right to try him for being a spy; and he was tried and acquitted; and that court martial, called by Jackson, denied the power of the military to try a civilian for any offence. Every man, unless connected with the land or naval service, is entitled to a trial by a jury of his countrymen, to have a copy of his indictment, and all the securities which are furnished by those bulwarks of freedom which our ancestors in England battled for two hundred years ago. Who does not

know that martial law has been abolished in England ever since the petition in the time of Charles? And do you suppose you are going to get men to fight by revamping an old military bill on principles which would make a revolution in England to-morrow? What do you suppose will be the impression made when the intelligence gets abroad that your arsenal or bastille has been filled with men—such men as one of the constituents of my friend from Pike, (Mr. Henderson,) a man well known to you, (and I cite him only as an instance)—of men taken and deprived of their liberties by being placed in the military prisons, and there tried for their lives—tried before a tribunal that claims the power to pass upon the life of an American citizen? The Arsenal has been filled with such men—some of them undoubted traitors at heart, and a great many utterly innocent—sent there by the arbitrary power which this military condition of things has endangered in the State, and which has great power to do evil. The gentleman from Clinton (Mr. Birch) knows of a man having been arrested by the troops of the United States in his own county, who would have been caged in the Arsenal but for his own efforts in his behalf; and that the arrest of this gentleman depended entirely upon the discretion of the soldiers; and that so far as they were concerned they claimed the power to try him, hang him, or otherwise dispose of him. The constitution of the United States says, unless he belongs to naval or land force, he shall not be tried except by a jury of his countrymen; yet these gentlemen down there at the bastille, assume jurisdiction over your life and my life! Have we forgotten the Declaration of Independence?—how it thundered against martial law, and established the plain principles of justice which lie at the foundation of liberty in this land—have you forgotten how the State Constitution and the Bill of Rights thundered against it?—and yet with the reign of martial law in this State, you think you are going to get soldiers to fight your battles, and that you will eventually get repose. Rest assured you will get nothing of the kind. You will never get repose in this State, and I am almost prompt to say there ought not to be repose in this State; for if there were, it would be the dead silence of despotism; the smooth surface of society, stagnant as the Dead Sea, and rippling with no free human thought. There never will be repose until you give the people solemn guarantees that you are wedded

to liberty. They have loved this Union, and it is almost priceless. There is only one thing more, and that is the liberty intended to be preserved by it. But you must satisfy the people of the State, before they will accord any deference to your action in raising soldiers, that you yourselves are free men, and that their rights shall not be trampled upon by any power that overrides the Constitution of the country. Who knows what martial law is? Do you, Mr. President, or I? Sir, how can I conform to a law that has never been published, but is locked up in the discretion of the soldier's heart? We go upon the idea that we must publish our laws; and we do not make men responsible until the laws are published. We all denounce—every schoolboy, even—that Roman tyrant who published his laws in fine letters upon one of the pillars of the temple, so that the ordinary eye could not read them, and then punished men for violating those laws. How do I know what martial law is? Judges in England, one hundred and fifty years ago, said they did not know what it meant; and are you willing the people of this State shall believe you are content to aid and encourage a state of things in which we are to be delivered over to a law higher than the State; and written upon no statute book in the world, but locked up in the breast of a man who wears a uniform and claims to fight under the stars and stripes? But how many troops have been raised? I have heard gentlemen living in North Missouri say that in their section of the country gold and ambition have to be offered (and even the double temptation is disregarded) to get men to enlist. They are offered gold—United States gold—and the paths of military promotion are laid open to them, and even under these circumstances it is hard to drum up a regiment; and yet in that same section of country you will see men start from their homes and take their rifles or shot-guns, each upon his own horse, and go away across the Missouri river. They do not expect ever to have a cent paid to them—they do not ask it. What is the reason these men do this? They are all lovers of liberty. We know that they cannot be particularly attached to Governor Jackson; there is no magnetism in his character, or magnitude in his mind. He is no military hero or champion of any sort, I know; and yet men go there to him without the temptation of pay, while you find it difficult to enlist troops for the United States even with the double temptation of gold

and military promotion. There must be a cause, and as I read it, it is that wide-spread and almost universal conviction which prevails over this whole land, that the Administration itself is at war with the principles of civil liberty. You can account for it in no other way. I deny your power.

I will not argue the subject any more; because I exhausted it as far as I could at our last meeting, but I am furnishing these as considerations why you should not attempt to carry out the plans you propose. Among a free people, all measures of a stringent character are irritant causes, and a free people especially are alive to susceptibility. Their natures are sensitive; and it ought to be so—for if not so, freedom would not be valuable. A free people cannot bear any restriction of their rights, and especially their constitutional rights; and then add to this, that liberty is with us an inheritance, the richest heirloom that ever descended from sire to son—and you see how difficult must be the work of imposing restrictions upon a free people here. I object to all these restrictive measures, not only because they are unconstitutional—that is enough, God knows, to condemn them—and I say they are not only criminal, but, taking up the ethical philosophy of Walpole, I say they are worse than criminal—they are a blunder. All these restrictive measures—test oaths—the declaration of martial law—the suspension of the *habeas corpus*—the law defying the courts of the country—all these measures are measures of weakness and not of strength. You see this in the arrests which have been made upon the ground of necessity. I have shown you heretofore that necessity can never be the origin of power in a free government, and that if you get the power from necessity, the exercise of that power brings you weakness and not strength.

I wish I had the moral weight and influence of a Webster to talk to this Convention about the dangers of the times, the true source of our difficulties, the real origin of our ills, and the irritant causes that must forever keep us agitated until we go to the bottom and pluck the cause out. This usurpation of power came from the Executive power of the Government. We heard one of the sound patriots referred to by the gentleman from Clinton (Mr. Birch), and now let me call the attention of the Convention to an extract from a speech of Webster. Every line of it should be written in gold and stamped upon the heart of every man in

America. It is an extract from Webster's speech on Jackson's protest. Let us see what a patriot thought of necessity, and how he frowned down any infringement upon the Constitution of his country, however small, and that, too, at a time when there was no war, no distracted land, torn in pieces—nothing but mere abstract things included in State papers. Let us see what he deemed it necessary for the patriot to do even when there was scarcely a ripple upon the surface of the Republic—when nobody thought of dissolving the Republic :

"The first object of a free people is the preservation of their liberty; and liberty is only to be maintained by constitutional restraints and just divisions of political power. Nothing is more deceptive or more dangerous than the pretense of a desire to simplify government. The simplest governments are despotisms; the next simplest limited monarchies; but all republics, all governments of law must impose numerous restraints and limitations of authority. They must be subject to rule and regulation. This is the very essence of free political institutions. The spirit of liberty is, indeed, a bold and fearless spirit; but it is also a sharp-sighted spirit. It is a cautious, sagacious, far-seeing intelligence. It is jealous of encroachment, jealous of power, jealous of man. It demands checks; it seeks for guards; it insists on securities; it intrenches itself behind defenses, and fortifies with all possible care against the assaults of ambition and passion. It does not trust the amiable weaknesses of human nature; and, therefore, *will not permit power to overstep its prescribed limits, though benevolence, good intent, and patriotic intent come along with it.* It seeks for duration and permanence. It looks back and before; and, building on the experience of ages which are past, it labors diligently for the benefit of ages that are to come. *This is the nature of constitutional liberty; THIS IS OUR LIBERTY.* A separation of departments, and the preservation of the lines of division between them, is the fundamental idea in the creation of all our Constitutions; and doubtless, the continuance of regulated liberty depends on the maintenance of these boundaries.

"There is a strong disposition running through the whole protest to represent the Executive as the peculiar protector of public liberty—the chief security on which the people are to rely against the encroachments of other branches of the Government. To this end the protest spreads and dwells upon the President's

official oath. Would the writer of the protest argue that the oath itself is any grant of power; or that because the President is to preserve, protect and defend the Constitution, he is, therefore, to use what means he pleases, or any means for such preservation, protection and defense, except those which the Constitution and laws have specially given him? Such an argument would be preposterous; but if the oath be not cited for this preposterous purpose, with what design is it thus displayed unless it be to support the idea that the maintenance of the Constitution and the preservation of the public liberties are especially confided to the safe discretion, the true moderation, the paternal guardianship of the Executive power?

"The proposition is that the duty of defending the Constitution against the representatives of the States and the representatives of the people results to him from the nature of his office, and that the founders of our Republic have given to this duty peculiar solemnity and force.

"Mr. President, *the contest for ages has been to rescue liberty from the grasp of Executive power.* Whoever has engaged in her sacred cause, from the days of the downfall of those great aristocracies which stood between king and people to the time of our own independence, has struggled for the accomplishment of that single object. On the long list of the champions of human freedom there is not one name dimmed by the reproach of advocating the extension of Executive authority. On the contrary, the uniform and steady purpose of all such champions has been to limit and restrain it. To this end all that could be gained from the imprudence, snatched from the weakness, or wrung from the necessities of crowned heads, has been carefully gathered up, secured, and hoarded as the rich treasures, the very jewels of liberty. To this end popular and representative right has kept up its warfare against prerogative with various success; sometimes writing the history of a whole age with blood—sometimes witnessing the martyrdom of Sydneys and Russells—often baffled and repulsed, but still gaining, on the whole, and holding what it gained with a grasp that nothing but its own extinction could compel it to relinquish.

"Through all this history of the contest for liberty, Executive power has been regarded as a lion that must be caged. So far from being the object of enlightened popular trust—so far from being considered the natural protection

of popular rights—it has been dreaded as the great object of danger.

"Who is he so ignorant of the history of liberty at home and abroad—who is he from whose bosom all infusion of American spirit has been so entirely evaporated—as to put into the mouth of the President the doctrine that the defence of liberty naturally results to Executive power, and is its peculiar duty? Who is he that is generous and confiding towards power where it is most dangerous, and jealous only of those who can restrain it? Who is he that, reversing the order of State and upheaving the base, would poise the pyramid of the political system upon its apex? Who is he that declares to us, through the President's lips, that the security for freedom rests in Executive authority? Who is he that belies the blood and libels the fame of his ancestry by declaring that they, with solemnity of form and force of manner, have invoked the Executive power to come to the protection of liberty? Who is he that thus charges them with the insanity or recklessness of thus putting the lamb beneath the lion's paw? No, sir—no sir. *Our security is in our watchfulness of Executive power.* It was the constitution of this department which was infinitely the most difficult part in the great work of creating our Government. To give the Executive such power as should make it useful, and yet not dangerous—efficient, independent, strong, and yet prevent it from sweeping away everything by its military and civil power, by the influence of patronage and favor—this, indeed, was difficult. They who had the work to do saw this difficulty, and we see it. If we would maintain our system, we shall act wisely by preserving every restraint, every guard the Constitution has provided. When we and those who come after have done all that we can do; and all that they can do, it will be well for us and for them if the Executive, by the power of patronage and party, shall not prove an overmatch for all other branches of the Government.

"I will not acquiesce in the reversal of all just ideas of government. I will not degrade the character of popular representation. I will not blindly confide where all experience admonishes to be jealous. *I will not trust Executive power, vested in a single magistrate, to keep the vigils of liberty.*

"Encroachment must be resisted at every step. Whether the consequences be prejudicial or not, if there be an illegal exercise of

power it must be resisted in the proper manner. We are not to wait till great mischief come—till the Government is overthrown, or liberty itself put in extreme jeopardy.

"We should not be worthy sons of our fathers were we so to regard questions affecting freedom. They accomplished the Revolution on a strict question of principle. They took up arms against the preamble of an act. They saw in the claim of the British Parliament a seminal principle of mischief, the germ of unjust power, which they struck at till they destroyed it. On this question of principle, while actual suffering was yet afar off, they raised their flag against a power to which Rome in her glory is not to be compared—a power which has dotted the surface of the whole earth with her military posts—whose morning-drum beat, following the sun and keeping company with the hours, circles the earth daily with one continuous, unbroken strain of the martial airs of England."

"Encroachments must be resisted at every step." "Oh, no!" say the patriots of the present time. "When the fathers said so, they were mistaken." "Eternal vigilance is the price of liberty," echoed the "grand masters of the Revolution;" but the patriots of the hour cry "supineness" instead. "A temporary supineness is just now upon the Constitution, but by-and-by we will set it up all right!" Setting up the Constitution will be like setting up a broken reputation; it is like some other things—when once degraded, lost forever. When the people of America accuse themselves to look upon a violated and broken Constitution, especially when broken and violated from the most dangerous source of the Government, the Executive, all liberty is gone. I do not consider myself a freeman to-day—I do not know but that this very speech will be considered treason. Speaking in the spirit of the words of one of the greatest patriots that ever lived, I should not deem it at all surprising if it were esteemed prudent that I should occupy a limited territory of about ten acres of ground enclosed in the lower part of this city. Let it be so. But while I do live, I will uphold those principles without which a government is worthless. Gentlemen say the Government does not hurt me. I say it does. I want to read, and I want to go before my people and make speeches; yet only a certain few are permitted to speak—a certain few can speak. The distinguished Ex-Governor of the State can speak freely to our Irish

fellow-citizens. I was amused one day at the novelty of a meeting at Biddle Market, where distinguished civilians poured forth their streams of eloquence into the Irish heart; yet they were not impressed, and it was not at all strange. They do not like the idea of crushing out liberty; and hence you can not raise an Irish regiment. And another reason is, because they think you have not spoken out freely against the usurpation of power in this land. A gentleman told me that Government did not hurt me, and that keeping me from reading what I chose was for my benefit. I replied that there is no servile serf who bends his knees before the Autocrat of Russia—no slave at the throne of the infamous Bomba of Naples—no one to be found in the purlieus of the great despotic seats of power in Europe—who can not say the same thing. A despotism never hurts favorites. A despotic government is the simplest and best, provided the despot be wise, and good, and great; but there is a little uncertainty about getting a good despot—and because we were not sure of getting a good one, our fathers said we should have none at all.

I see the blood of my distinguished friend from Clinton is up, and that he will fight when it is necessary. I might fight when it comes to revolution; but until I get in a fighting mood, I shall practice the system of protesting, and I shall get as many to protest as possible, especially of the members of this Convention.

You talk about your power, but is not the satrap above you to-day? Suppose you try to pass a secession ordinance—don't you think you would go into the Arsenal? Suppose you indulge in criticism upon the "powers that be"—don't you think it would involve you in some peril? Why, according to the idea of the present time, Madison ought to have suppressed every paper in his time—and there was hardly one that did not denounce him in New England: he ought to have caged every editor and sent him to the bastille, and kept him there till the war was over. But Madison was not only a patriot, but a great deal more. He helped to make the Constitution of the country; he knew how it was made—every timber, beam and foundation-stone about it; and he knew that when he gave men the right to speak they might speak foolishly and wickedly; that so soon as he gave them the power to read and write, they might abuse it. But never mind; as a man could not exist as a free agent with-

out the privilege of going to hell if he chose, so a man could not have a free press unless he had the right to publish foolishly. But in these times, we have a power to discriminate what we shall read; and if we offend that power, we are liable to be tried by court martial. Martial law makes a Dictator. Are you willing to live under a Dictator? If you are, I am not. Go back to the Revolution, and who was the man in the old House of Burgesses, when some man, moved by the disastrous condition of the country, torn asunder by Tories and Whigs, and who wanted the power on the side of the Whigs, proposed that Patrick Henry should be made Dictator? Was it not Corbin, who was a warm personal friend of Henry, who squelched that matter instantly by a rebuke, when he said, "Whenever you put a Dictator's crown on the brow of my friend Henry, I will plant a republican dagger in his heart."

Now, we must have a Dictator, and be just as still as mice when cats are about, fearing one of those feline paws will be laid upon us with a claw in the end of it. Is that the spirit of American freedom? I say, with Walpole, "this is worse than criminal—it is a blunder!" All such things chafe and gall the American heart, and you can awaken no enthusiasm in the human breast to fight under such circumstances; and I do not think they ought to fight at all, except for liberty. If the Union gives liberty—fight for that, or die for it. If the Union will not give it, fight for liberty anyhow. But the Union should not be confounded with liberty itself. I regard the Union with veneration, because I consider it an instrument of liberty. I mean to say that the Union without the principles which give it life, instead of being a blessing to freemen, would only drive us, by inevitable destiny, into a military despotism.

Now, a few words in reference to the distinguished delegate's allusion to Clay of Kentucky. I remember well the occasion upon which he uttered the words of that extract; but the gentleman from Clinton did not furnish the conditions under which he spoke on that occasion. The war with Mexico left us with a military occupation on the Rio Grande, and during the occupation of that Territory the Governor of Texas indicated that he would take possession of the country occupied by the troops, because he claimed it was in the boundary of the State of Texas. The Representatives of Texas on the floor of the Senate utter-

ed similar views, and it was a case in which the Government of the United States was right and the State wrong; and when gentlemen mouthed it and blustered, and declared it was an unlawful exercise of power, and the State would redress itself, Clay said he was for trying the strength of the Government. He was right. But does not the distinguished gentleman from Clinton do the immortal Clay injustice if he means to impute to that noble spirit any disposition, at any period of his life, to wink at the encroachments upon the Constitution of the country?

At this point Mr. Wright gave way to a motion to adjourn to 3 o'clock P. M.

AFTERNOON SESSION.

Met at 3 P. M.

Mr. MEYER offered a bill repealing the act passed by the last General Assembly which establishes a uniform mode of publishing sales under execution. Referred to the Committee on Civil Officers.

Mr. WRIGHT. At the hour of adjournment I was about to speak of my concurrence in the second proposition contained in the resolutions offered by the gentleman from Clinton—that was the abrogation of all useless offices.

The third proposition, if we have the power, is for the reduction of all official salaries. By reason of the present condition of the country, I think the officers ought to curtail their own emoluments. It would be an evidence of patriotism for them to do so. I fear, however, that if you reduce their salaries, you will have, after the war is over, a great demand for gentlemen of my profession to settle the question as to whether you had the power.

The fourth proposition is in reference to the collection of debts and taxes. Waiving the question of power, it strikes me that would be a good thing. I believe it is the unanimous view of the gentlemen who fill our benches that there can no longer be any collection of debts.

The fifth proposition is that the sword of the State shall be strengthened by the credit of the State. That proposition is very rhetorical and perspicuously stated. The ways and means to accomplish this are such as I think would baffle the ablest financier in America. I have a few suggestions to make on that subject. If I understand the proclamation of our present Provisional Governor, the design is to raise a State army in contradistinction to the Federal

army. I suggest to the members of this Convention the propriety of pausing before they proceed to organize a State force. Looking at the subject financially, where are the means and what are the resources by which Missouri can maintain that double taxation which will arise from her paying her proportion of the expenses of the war conducted by the General Government, and added to which must be all that accumulation of debt arising from the payment of the State forces. Where is the power that can perform that double duty? Are any of your constituents in a condition to be overloaded with additional accumulation of debt for the purpose indicated? This State already has a bonded debt of near \$30,000,000 and how does the credit of the State stand in the markets of the world? And now with what propriety can you go before your constituents with an accumulation of debt for the purpose of raising a State army? The only thing about it is, you will never raise a State army, because the men raised will go into the United States army. I think you may well pause before you take steps in this direction.

Another proposition is that the loyalty of all officers shall be secured by means of an unquestionable guarantee. The distinguished gentleman from Clinton supposes I would have genius enough to forge, out of the resources of my mind, an oath that would touch each latent secession principle lying in the heart of any officer. I disclaim any such gift; and enter my protest against all test oaths that are not in accordance with the Constitution of the United States. They are odious, as administered to every man in this State, under the Constitution of our State. No man should be sworn to support the "*Administration*," nor should he be sworn to support the "*Government*." The Fathers never provided for such oath; they fettered the conscience to the "*Constitution*." Government is a word loosely and vaguely used, and may be confounded with the actual Administration. Nor should a man be sworn to "support the Constitution and the Government;" such oath is a meaningless tautology, or something worse. I know the experience of the day, and the efforts of those who disregard the doctrines of the fathers of the Constitution. They suppose they can get up an oath of more efficacy than that furnished by our fathers; yet these men know well that an oath to support the Government of the United States might be an oath binding them to oppose the Constitution; so that an oath to

support the Government of the United States and the Constitution of the United States might involve a perfect suicide; that fealty to the Constitution might carry a man on the right hand, and fealty to the Government might carry him on the left hand. If these officers are traitors, no oaths you can administer to them will amount to anything, morally; because they may say, "true, I have sworn to support the Constitution, but I have as good a right to break it as the Cabinet at Washington, and as the men who are going all through the country erecting the stupendous and colossal statue of martial law, rising above the Constitution. If this can be done by the authorities at Washington, why can it not be done by me?" There would be no moral effect in such an oath. I do not want men to be traitors. I would to God every man in the United States were rallying around that flag, so long as it represents the object for which it was created. I do not cherish that flag because of the stars—the red, white and blue,—but because of the principles which it has represented. Suppose I saw that glorious banner floating upon the Kremlin at Moscow, would I love it? If I saw it enrolled upon some capital at Vienna, or if it floated from the summit of Notre Dame, would it awaken any emotion in me as a free-born American? No; because each of those despotisms represents some other than the idea of American constitutional liberty.

I do not want men to be traitors, or be dragged off by Jackson or the Confederate States into disloyalty. Whatever men may think of me, I can vindicate my course to myself, and I stand here to-day battling for those principles which the Constitution guarantees to us all; and if those principles are wrecked, there is universal desolation throughout the land; we have been hugging to our breasts the shadow of liberty, and not its substance.

The gentleman from Clinton has declared that this war is not waged for the emancipation of the slave. I do not do the Administration injustice, if I know it. I trust there is no latent purpose to carry on this war, having as a direct end, or an incidental result, the emancipation of the slave; but if the Administration are clear of that crime, there are multitudes of men who have a controlling power over the Administration, who are for it. I was glad to see the reply of the President to the proclamation of Fremont; but what are the terms of that reply? Is there any intimation that the proclamation was inconsistent with the liber-

ties of the country? Not at all. He declares that he supposes that Fremont, being upon the ground, can better judge of the affairs than he can at Washington; but that it would be better, in reference to this proclamation, to conform to the act of Congress on the subject of confiscation. That is all. There is no direct rebuke of this military satrap, who, without the authority of the Federal Government, comes to our shores, and proclaims that he has the power to emancipate slaves, and has emancipated two slaves belonging to a citizen of this State. Look at the facts in our own city, (and I mention it with mortified pride,) that the only presses permitted to live in this State, when that proclamation came out, had not one whimper against it, startling as it was. I looked in vain in the *Democrat* and the *Republican* to find a syllable of censure against that enormous act. I looked over the papers of my State, and I tried to find somewhere some expression denouncing such an act; but I looked in vain. But, thank God, there was a man in Kentucky who could speak. That man, Holt—whom I regard as a patriot—said if this proclamation was to be the law, Kentucky is gone; our people will not stand it; for the institution of slavery is among them, and it will be nothing more than a confirmation of all their fears regarding the intentions of this Republican organization, which has been accidentally lifted into power. The independence of one man spoke to the Administration and procured the eradication of that odious portion of the proclamation, simply because he would not exceed the act of Congress, as if that principle did not lie deeper than the act of Congress. Do the people of Washington suppose the people of the fifteen slave States would give countenance for a moment to such a revolutionary principle as is involved in that proclamation?

The measures of this Convention—the institution of the Home Guards, the illegal assembling of a body that had no right to assemble at all—are bad enough in themselves; but I beg you to remember that there is no more constitutional power in the Executive of the United States to redress a wrong committed by one citizen of the State of Missouri upon another than belongs than to the Emperor Napoleon or the Czar of Russia. It would be just as right for the *gens d'armes* of Napoleon to come here and redress wrongs as for the Federal soldiers to do so. Why is this? Because Missouri regulates her own affairs. In the language of the report of the Committee made

at Jefferson city, she manages her police and internal affairs in her own way. When the President of the United States declares that the driving off of a Union man by secessionists is an outrage and takes the remedy into his own hands, I deny his right to do so. Protection is in the State judiciary, and not in the military arm of the Federal Executive. The remedy is by indictment and by a civil action. The framers of the Constitution acted upon such a principle, and the General Government has no right to interfere and organize a legal tribunal. Who could not foresee that the moment the attempt at unauthorized interference was made, it would bring on civil war amongst us? I ask the gentleman from Clinton, who feels satisfied this war is not waged for the emancipation of the slave, if there is not something almost equally as important as the emancipation of the slave promulgated by this Administration? What is this system of slavery but allowing a man to hold property in the negro, and have a dominion over him? It is one of the attributes of a free man by which he can hold property. But are our constitutional rights ended when it is said we can hold negroes lawfully? I think there is something deeper than that.

What is that other great privilege?—the writ of habeas corpus. It is the dearest right that belongs to a freeman, unless it is that other right, to think and speak whatever he pleases. Lincoln does not indorse the emancipation of Snead's slaves, but he does indorse a defiance of the Judiciary, by abolishing the writ of habeas corpus. What gave such mighty throes to the French Revolution? I know many causes contributed to it, but one means was that Frenchmen went into the Bastille and lay there, being denied the opportunity of vindicating their innocence. We have got a Bastille in this country—one in the bay of New York, and one in this city, where men are imprisoned, many innocently. The officers there in charge have told me that out of the large number of men sent there, they find the most of them have been sent there through malice. Look at Perryman's case, in which a man was kept for five or six weeks, upon the idea that his name was spelt with a B instead of a P. Look at the case of Wells, who was charged with firing into a train, and who was not within thirty miles of the train, and had not seen the cars for six months; he was compelled to live at the Arsenal week after week, while under the idea of confiscation many greedy men looked at his property. Gen. McKinstry told me a

good deal of truth when he said: "In these times, sir, men imagine a great deal more than they see. I have already had affidavits sent to Washington that I was a secessionist; and I know that the idea of confiscation may sharpen the imagination of men touching the conduct of a wealthy secessionist." Now, when Congress takes hold of the writ of habeas corpus, it should not surrender its valuable rights to a mere soldiery; yet this is indorsed by the present Administration, and is a greater ill than ten thousand wars for the emancipation of the slave.

In reference to this financial question. I suppose my respected colleague (Mr. Hitchcock), in offering his resolution yesterday, had recently been reading Motley's "Dutch Republic." My colleague has not disclosed whether he means to use confiscation as a way and means of finance, or as a mode of punishment, or both. Our historian says of the Duke of Alva, infamous for tyranny and bigotry—for he was as bigoted as an abolitionist—that he stands out alone in military annals as the only tyrannical soldier who ever made confiscation a scheme for revenue. Why will not the gentleman from Clinton strike for higher rights than that to hold slaves? Why not oppose the suspension of the right of habeas corpus? Why not protest against the terrible power, assumed by the military, to try civilians, for life, against the unequivocal mandates of the constitution of the United States? Why not protest, at least, against the successful war waged against the freedom of speech and of the press? Why not fling the weight of his voice against that colossal power which overstrides the charter of our liberties—martial law? The distinguished delegate would rise in rebellion against a *war of emancipation*, but supinely resigns himself to weightier encroachments!

In my judgment, all the propositions which have been brought forward will prove to be an irritant rather than an antidote. I know it is said by some members of this Convention—"You are opposed to our action, and you will do nothing for us but stand and snarl. What would you have us do?" I answer, in the language of Clay: "In human affairs, when you cannot see clearly what you ought to do, it is the highest principle of wisdom to do nothing at all." (Applause in the lobby.) If called to the bedside of a patient prostrate by disease, I should be unable to detect the nature of his malady—however much

I might deceive the patient by seeming action—I would do nothing; I would wait for further developments, and trust to the strength of nature. If the symptoms indicated a lack of nervous power, which might be the result of latent inflammation of the brain, or spring from the general decay of vital force, I would not bleed; for if the prostration was *not* the result of secret inflammation, the patient would die under my lancet. So in national affairs. When we cannot see what we ought to do clearly, it will result beneficially if we do nothing at all. I object to your measures, first, because there is a want of power; second, because I see nothing, as I think, clearly, though I may be mistaken, in your measures, at all calculated to allay the excitement; but, on the contrary, to gall and chafe. I believe the action of the Convention will make men more disloyal. I believe it would be the best thing under heaven if we would adjourn and go home. This body is not intended to be a permanent body. I know that we have abolished the Legislature, and that you piled necessity upon necessity; but is it not better to stop now, even though we have done mischief, than to attempt to mend the matter by multiplying error upon error? I think we do not represent the will of the people of this State now. All your measures will only irritate. You have done mischief enough; and about the only thing you can do now is to declare that you will perpetuate yourselves by filling all vacancies that may arise from death or resignation. (Demonstration in the lobby.) One single suggestion more; and that you not only have the power to fill vacancies, but the power to create them, and better fill them, if you are going to be a permanent body; though in all probability I shall leave you, and doubtless with your consent—(a voice, “certainly”)—if you design anything of the sort. I merely recommend these things to you in the spirit of charity and brotherly love.

MR. BIRCH. As contrary to my expectation, perhaps in misjudged courtesy to myself, no other gentleman seems disposed to continue the debate this afternoon, I yield to the parliamentary necessity which devolves upon me of replying to the distinguished gentleman who has just resumed his seat. It must be apparent to all that my physical condition is such as to excuse me from much elaboration, even if I had the time to refer at length to such authorities, political and historical, as it might be well to call up and invoke; were a reply deemed necessary to that greater portion of the dele-

gate's remarks which respect the questions of habeas corpus and of martial law. I shall only so far, however, notice *those* great questions as to demonstrate that they are not necessarily involved in the consideration of my *resolution*, and hence not germane to the discussion of it.

As to the movement apparent in the galleries, whilst I regret it, I am not surprised at it. There are citizens *all over the State* who have been so seduced by the sophistries of one set of speakers, and so fired by the misrepresentations of another class, as to be indisposed to even *listen* to the more staid inculcations of facts and *reason*. I am hence not surprised to find that there are even in St. Louis gentlemen who think they “know it all,” and who are withdrawing before they have heard even half as much as might *really* be good for them. For the sake of the State and themselves I could desire that it were otherwise, but, in order to afford all such an opportunity to retire “in order,” and permit those who remain to *hear* what I may see fit to say, I will make the necessary pause.

[After quite a number had withdrawn from the galleries, and it had again become quiet, MR. BIRCH proceeded in substance as follows:]

Taking up the line of this discussion at the point where it was concluded by the delegate from St. Louis, I have to premise that so much of it as by inuendo or otherwise imputes to his co-delegates the purpose or desire to perpetuate their existence, or to create and fill vacancies, will remain by me unanswered. I have declined to reply to it when proceeding from the unlicensed ribaldry of the hustings, and I shall be alike self-respecting here. If the delegate designed it alone in the way of pleasantry, he owes it to himself and to those who stand here as his equals to say so; but if he designed it as a text from which secessionism is to *preach* from the hustings, (as it has done,) I design no other reply than to recur him to the previous portions of his own speech, in which he speaks of many of us as being exiles from our homes and our families, and ask him whether it was either accordant with reason or with justice to suppose that such men could desire to perpetuate such an *official existence*? And for what, Mr. President? For a compensation which all will have been expended here and on our way home—for, of course, our own compensation must go down in the same proportion that I propose in respect to all other

officers and servants of the State. All I have further to say in that connection is, that if for the freedom with which that gentleman, or any other who is here, has indulged himself in "high debate" upon the condition and the perils of the country—if for *that* either he or others, on either side, are in *any* sense molested, whether here or elsewhere, (as he seems to fear he will be,) it will be a great outrage, and should be resented and redressed accordingly.

The allusion of the distinguished delegate to the counsel of the Sage of Ashland, like his previous reference to the inculcations of Mr. Webster, was no less unjust to that distinguished statesman than it was inapplicable in our present condition. Who does not remember that on the occasion of his grand public reception in Baltimore, during the great and exciting contest of 1840, (when I quitted my own party and acted with the gentleman and his party,) Mr. Webster excused himself for addressing them on the Sunday of his arrival upon the ground that "*there were no Sabbaths in Revolutionary times*"? Of course, it is not necessary to discuss the mere ethics of such a sentiment, and I hence recall it as a simple and sufficient answer to all he has read from a speech of the same illustrious statesman, having reference to periods of comparative *quiet*. If Mr. Webster would not scruple in the midst of the great civil revolution of 1840 to disregard the mere letter of the injunction of the *Most High*, how far do you suppose he would be restrained, in the midst of *this* revolution, in stickling for the simple letter of *man's* commandment—particularly, if he believed that to adhere to the *letter* would be to lose the *substance*? I trust my friend will deem himself sufficiently answered upon this point, particularly as I might have foreborne to reply upon it at all on the score of its almost total *irrelevance*, as I *shall* forbear upon many points of his elaborate and well-delivered speech.

Not less unfortunate has the delegate been in his reference to the advice of Mr. Clay. Does any one suppose—does the gentleman *himself* suppose—*dare* he suppose that the illustrious author of the extract which was incorporated in my remarks of yesterday, would permit him, for an instant, (were he present to rebuke him,) to quote *him* as authority for "doing *nothing*" in a crisis like the present. Even the suggestion of a *possibility* of such recreancy on the part of Henry Clay, deserves the reprehension of every true friend to his memory and his fame. Yet the delegate re-

calls and misapplies the terse counsel of that ardent and patriotic American to induce us to "do nothing at all" at a moment when our State is overrun by forty thousand armed secessionists, under whose lawlessness one-half of it has been covered with almost barbaric desolation, and before whose demoniac thirst for the blood of those who most prominently oppose them, many of the members upon this floor have had to fly into other localities or other States. It is in circumstances such as these that the distinguished delegate from the comparatively quiet city of St. Louis would do "nothing at all"—leaving secessionism to its sway, and those who resist it to its fury! It is in this manner that the delegate would let secessionism "*alone*" (all it has ever *asked* for)—and let it work *out* its lawless purposes, to the ruin of "all our material interests," and (I read, on yesterday) unless we will cravenly permit the restoration of a Government and a Governor which even the delegate himself essays in no respect to defend. To my mind, Mr. President, the radical difference between my distinguished friend and myself, in this regard, is but the difference between a man who, with all its errors of administration, is still a friend to the Government and the *Union*, and a man who is the *real* enemy of both. [Great applause.] So far from doing "nothing" in a crisis like the present, I would do everything that promised even a *hope* of restoring the quiet of the State or the better security of its loyal and law-abiding citizens. It is hence that I propose to improve the condition of our Treasury, by lopping off such officers as are comparatively useless, and reducing the compensation to all others. It is thereby that I would improve its credit, and pledge it, in conjunction with that of the Federal Government, wherewith to feed and clothe and pay the brave and loyal men who have flocked, and are yet flocking, to its standard; and I would not stop in such a cause, and for such a purpose, until (if necessary) I had placed an American musket in the hands of every American citizen who was able and willing to use it for the defense of the Government and the laws to which he was born. [Applause.] I would not stop to inquire whether under the audacious rebellion which was primarily inaugurated in the imperious ambition of disappointed politicians, the bonds of my own State had gone down, as other State securities have done; but I would issue more, if necessary, even though reaching a still lower depreciation, (leaving the General Government, of course, to its duty of providing for

them in the end,) and with the pledge of these, I would collect the "ways and means" to preserve the Government of my own State and restore that of the United States. Instead, therefore, of doing *nothing*, I am prepared to do much—and to suffer much, if need be—in order to preserve at once the fabric of our civilization, and of all our hopes of prosperity and of peace. [Repeated applause.]

Mr. President, between gentlemen of the age and experience of the delegate and myself there ought to be no such disagreement of opinion as there seems to be upon the same presentation of *facts*—and perhaps there is not. I will therefore venture to submit to my friend the inquiry, and to solicit from him a candid reply to a simple question: Does he believe that in the present and prospective condition of the country, it is possible to have anything like a fall and fair election on the first Monday in next month? I pause for a reply.

Mr. WRIGHT. I do not exactly relish this appeal to my *candor*, inasmuch as it may be intended to involve the inference that I have been uncandid in something else I have said to-day. I will, however, answer the gentleman, that in referring to the condition of things which existed at the time this ordinance of election was passed at Jefferson, (about the last of July,) and the condition of things at present, I think the prospect for a fair election is as good now as it was then.

Mr. BIRCH. I regret that my friend has felt himself unable or disinclined to answer so simple and direct a question. It may or it may not be that the gentleman is correct in his opinion, that the circumstances no more disfavor the hope of a fair and full election now than they did at the time of the passage of our ordinance; but that is not the question. There were many who *then* believed—my friend, perhaps, amongst the number—that we could not hope (as others and myself did) for such an expression of the popular judgment in November as would alone carry with it the wonted moral or popular authority; and these were right in their apprehensions, whilst myself and others were mistaken in our hopes. How is it *now*, however? Poll this Convention, now consisting, I believe, of between fifty and sixty members, and I will yield this whole question if there be five of the entire number who will answer, upon his faith and his honor, that he believes it possible that we can have either a peaceable, a fair, or a full election, at the time designated in the ordinance which I

propose to repeal. I believe I might safely agree to yield a proposition even of such acknowledged importance, if there could be found even *one* member of this body (whether present or absent) who would give it as his candid opinion that such an election could be holden within the next three weeks.

How, then, stands our duty? Shall other gentlemen and myself stand here upon a punctilio of what shallow knaves will call "consistency," and refuse to undo what it is now apparent we were mistaken in doing at our recent session at the Capitol? To *such* "consistency," Mr. President, I lay no claim. If I wrong a man in private or in social life, it is my *duty* to retract, and thus *redress* the wrong. And so of men in public station, the most despicable and least to be honored is he who, having been clearly mistaken, either in his hopes or his fears, (as a majority of us were in the hope that secessionism would lay down its arms and permit us to decide our differences by a full and fair election)—the man of all others who is least to be honored under circumstances of that character, is he who will *not* forego his policy and correspondingly change his vote. It is *not*, therefore, to "take from the people the power to elect their own officers," but to *secure* to them the power to do so, that we simply *postpone* the election until such time as the circumstances of the future may be more propitious to a calm, dispassionate and full expression of their judgment and their will—to a period, if you please, Mr. President, when the forty thousand secessionists now embodied in arms may vote as well as we can, and we can vote as well as they can. What says my friend to that?

Mr. WRIGHT. You say there are 40,000. I suppose there are 50,000 quasi secessionists in arms. I do not suppose you have more than 20,000 in arms; and there will be, of course, a greater chance for the non-combatants for the Union than for the secessionists. North Missouri has been cleared of these marauding bands; and I think the circumstances are more favorable for an election now than they will be in the future.

Mr. BIRCH. If the southern half of the State was in no worse condition than my own section, (my more immediate *home* section, I mean,) I might not feel myself authorized to postpone an election which comprises the whole State. However regretting the exasperations and the extremes of many in my own county, it is perhaps but proper to say, I be-

lieve a comparatively quiet election could be held there, in spite of the military proclamation of Col. Hughes. Like the prophets of old, he is less so in his own country than he is almost anywhere else; and I believe the better element of secession there would concur with all the *Union* element in favor of a full and free and fair election. (*En passant*, Mr. President, it was not my neighbors or my countrymen, alienated as many of them have become towards me in consequence of our political disagreement—it was not the men of Clinton, as some suppose, but armed soldiers, with their captain at their head, from a neighboring county, who seized and carried off the unarmed representative of my county, and was only prevented from seizing my son and myself, because they were resisted by arms.) If, therefore, other sections of the State were even as *comparatively* quiet and right-minded as the district from which I have the honor to still respond as a Union delegate, whether for weal or for woe the election might still go on. I cast my eye over our hall, however, and see there *alone* the evidences that this election should not now be *forced* upon the people who are here represented—for with unbroken voice they assure us the election *cannot* be free, *cannot* be full, *cannot* be fair. Let those who desire any *other* election than that, vote against my resolution; and let the sober sense of the country decide between us.

In addition to these considerations, Mr. President, the gentleman to whom I yielded the floor with so much pleasure, and who corrected my assumed statistics with an accuracy to which I can lay no pretension, has furnished and suggested an additional or *augmented* reason for postponing the election. He supposes there are *fifty* thousand armed secessionists in the State; and that the Union men, with only 20,000, would have an *advantage* in the election of 30,000. If that be so, Mr. President, every delegate upon this floor is *sworn* to vote for the postponement, unless he be ready to at least *connive* at the disfranchisement of so large an army of voters. I shall not do so, whether upon the flippant plea of false “consistency,” or upon any other false *pretense*—realizing, as I do, the great American truth that whilst a full and fair election is more than all things else the palladium of American *liberty*, a restricted and a *foul* election is the “sum of all *villainies*.” I will *not* leave such a weapon in the hands of an adversary; for as sure as they are secessionists would they use

it to impair the great moral effect which alone renders an election desirable at all.

“But,” says the censorious delegate, “your own action, at the last session, has been the cause of all this.”

Mr. WRIGHT. I did not say the cause of *all* our troubles; but that it had contributed to complicate them, and bring them to what they are.

Mr. BIRCH. I stand corrected, Mr. President, and will for a moment devote myself to *that* accusation, involving simply a disagreement of opinion between the gentleman and myself. What *was* our action, and what the necessity for it? We found the capital in the possession of the soldiery of the Federal Government. The Governor of the State and the Lieut. Governor had fled from it under circumstances which rendered it impossible to return except as military conquerors, with force sufficient to resist the Government of the United States in the execution of the writs of its Court—and they have not yet returned, and probably *never will*. The people of the State—at least the peaceful and law-abiding portion of them—were in the daily need of a Governor to discharge the everyday duties of the Executive; and what did we do to give even *color* to the imputation that our action has been, in any *legitimate* sense, the cause of our present complications? Sir, our action should have aggravated *no* such complication, but the exact reverse; nor would it have done so had those who rendered it necessary but signified their willingness to meet us and to *vote* it out, instead of a purpose again the *exact* reverse—namely, to disdain and *spurn* our reference to the people, and continue to “*fight* it out.” From *that* has culminated our present extreme divergence; and from *that* results the necessity of arming against those, and those only, who have spurned the ordeal of the *ballot*, which must be postponed accordingly. Gentlemen may tax their ingenuity, or their sophistry, or their subtlety, to the utmost, and yet it is all replied to or turned aside by *that*!

So, too, of all that the gentleman has said, and so well said, of the sacredness of the *habeas corpus* and the despotism of martial law. I recur him to the cause, or (if he prefers it) the excuse for all that he has complained of in the conduct of the present National Executive and the “Military satraps” as he denominates those to whom he has made such frequent allusion. Whence the cause—whence the alleged *necessity* for all that he complains of? I am

not here to *justify* it, for, in the very nature of things, I can not be supposed to be in possession of all the *facts* upon which either the Administration or its officers in this department (or elsewhere) have proceeded to adopt the extreme measures that are complained of. But *this* I know—and this, too, the gentleman knows—that if there had been no such audacious *rebellion* as he and I concurred in denouncing from this floor, in March last, there would have been no *necessity* (whether real or supposed) for the extraordinary measures which have been resorted to in order to put it down. In the adoption of these measures, the Administration and its agents may not, by any means, have chosen the wisest course—but will any intelligent and *sincere* friend of the Union for that cause—a mere error of *administration*—ally himself to the *enemies* of the Union, and attempt therefor to break it up? No, Mr. President: the man who causelessly, or without sufficient cause, aims a dagger at your heart or mine—as my friend and myself have concurred that secessionism aimed it at the heart of the Union—that man is not to be afterwards pitied and coalesced with, if in resisting him we are driven to the necessity of either strangling or subduing him, even *without* punctillious reference to “the code of honor.” And so of those who have aimed at the life of the *Union*, by which of course is understood the renunciation of the Constitution and the subversion of its government—does it lie in the mouths of either these men or their *sympathisers* to complain of imputed infractions of certain *clauses* of the Constitution, when deemed necessary to preserve *the whole* of it from overthrow? Sir, to ask such a question is to answer it, at least to the *common* sense of the country, and it is to that tribunal I would carry my appeal. I retract nothing that I have previously said upon this common sense view of the proposition. On the contrary, I reaffirm the opinion expressed in debate with one of my colleagues at our last session, and in the same sense I am ready to join hands with my friend from St. Louis—that “if he only means to say that since this war was inaugurated by the reduction of Fort Sumpter, and the menace of our capital by the war minister of the Confederate States, the Administration at Washington seems to have supposed itself reduced to the necessity of making a record which is unsurpassed in usurpation and in the assumption of unacknowledged power”—if this be all the delegate means, we will continue friends

as we ever have been. But as I further replied to the estimable and distinguished colleague alluded to, (Judge Dunn, whom I regret is no longer with us,) so I yet further reply to my friend from St. Louis, (Mr. Wright,) that “if he means or intends that because the Administration may in this respect have violated the Constitution even *beyond* a reasonable excuse in the extremities to which it was driven, we should therefore abandon our old and common ground, and ally ourselves with those who owe all the status they have to a previous and comparatively causeless renunciation of the *whole* Constitution, and a war upon the Government of which it is the symbol and the bond—if my friend means that, his own regrets can not be more sincere than mine will be, if henceforth our pathway shall lead in opposite, though never in unfriendly directions.” I may as well reiterate from the same speech that “I have no heart for the task, and think it inappropriate to our duties here, to attempt a comparison between the usurpations, the robberies and the terrorism of the seceding and the Confederate States on the one hand, and the like usurpations and other malpractices of my own Government on the other hand. But this I may say, in dismissing this topic of remark, that I shall not probably be carried away from my own *Government*, however severely my judgment may reprehend the errors of its *administration*, so long as the alternative is limited to an alliance with a party who has violently and causelessly (or without *sufficient* cause, as myself and my friend agree, *usurped* a government in violation of their allegiance to their *former* government; and who will stand before God and posterity as mainly responsible for all the *consequences* which have ensued, or which *may* ensue, from any efforts which may be deemed necessary to repress and put down rebellion.” This is my answer to all that I have heard of the misconduct of the Administration or its army, whether in the misjudgment of those who direct, or the misconduct of those who carry out its line of policy. I knew before the war was inaugurated that its prosecution would devolve (in part at least) upon those whom it has been devolved; and that in northern regiments there must needs be elements uncongenial with the institutions of Missouri, and hence to be avoided if we could. In the interests of peace I long sought to avoid the necessity of their presence amongst us, but *secessionism worked and willed it otherwise*—they had at last to come, and for one, I

thank them for coming here. What boots it to us, sir, that in perhaps every regiment that is sent amongst us there are men who have been falsely educated to believe they have the *right* to "steal a negro," and that they may essay to steal yours, sir, should they come into Andrew, as they attempted to steal my neighbors' and my own when encamping but a night in Clinton? We will punish the scoundrels if we can detect and arrest them; but we can blame neither the Administration, which is compelled to employ them, nor the officers, who seem to do all they can to overlook and restrain them. We can do nothing more, in short, than to *hold SECESSIONISM responsible for all our annoyances and all our losses!* But for that, Missouri would to-day have peace, prosperity and happiness; and but for that, the necessity would not exist for even a Federal *garrison* in the whole broad State.

Having been necessarily absent at the opening of the session this afternoon, and thus deprived the pleasure of listening to a portion of the remarks of the learned delegate from St. Louis, I desire only to say that it will have been in no spirit of discourtesy should I fail to reply to his whole speech as it deserves to be replied to. The next point which I noted this morning may be disposed of by reiterating what was premonished of our authority by all the distinguished secessionists of the Legislature whilst the bill for our organization was under their discussion. They conceded that we would be a *supra-constitutional* body; and to-day, Mr. President, we are *every* thing for the weal or the woe of the *State*, or we are *nothing*. It is in no spirit of unkindness, therefore, that I decline to make any further reply to the most *astute* criticisms of my friend in respect to our power under the *Constitution*. I hope we shall not unnecessarily or injudiciously transcend it; but if, perchance, we should, it will not lie in the mouths of those who invested us with the *authority* to do so, and who created the *necessity* for doing so, to complain of the necessary results of their own action.

I thank the gentleman for refreshing my recollection in respect to the circumstances and the occasion on which Mr. Clay delivered the immortal speech from which I quoted on yesterday, inasmuch as it thereby appears, from his own ingenuous showing, that the use to which I have appropriated it was most apposite indeed. Nor am I less thankful to him for reminding me, that, in another great speech of the illustrious Kentuckian, he discriminated

between the just and the unjust interposition of a *State* in opposition to the Government of *all* the States. I, too, have marked our records during every session of this Convention, as I did again on yesterday, with concurring evidences of like discrimination.

As to "test oaths" and other epithets by which the delegate may seek to prejudice and to prejudice our action in regard to my last proposition, if I had the means to procure from the archives at Richmond, the oath of loyalty to the *Confederate* Government,* I would not trouble him to assist me in drawing up a similar oath for all the officers under our *own* Government. Talk of "oaths," or of "confiscations," or of "exile!" Go, my friend, amongst the *Confederates*, if you desire to be fervidly eloquent upon such topics. We simply propose that our public officers shall subscribe a declaration under oath, that in the present contest between the United States and the Confederate States, they will stick to their own side—the side of their *own* Government, and not give "aid and comfort" to its *enemies*; and that any one who does not take that *judicial* view of his duties shall be *relieved* of those duties. Does my friend admit the authority of the Supreme Court as to the construction of the Constitution of the United States upon questions of national loyalty? He courteously nods assent, and that is all I ask. I would go no further in the oath to be prescribed by this Convention than to bring to the understanding and the eye of all from whom we may require it, what the highest court in the land has decided to be the *meaning* of the oath to support the Constitution of the United States; and if he shall find himself unable to *take* such an oath, surely he could not think it hard to lay down his employment *under* that Constitution. If this be neglected in times like the present, what is to prevent every public officer from construing his constitutional obligations for *himself*,

* In default of this the following copy of the oath administered to such of the captive officers at Lexington as would consent to take it, may throw a little light on the subject; and will be *particularly* refreshing to those who yet innocently believe that our late President and his command are still loyal to the "Government of the United States."

The undersigned 1st Lieutenant, ——— a prisoner of war, at ———, pledges his sacred word of honor that he will not again during the present war, take up arms against either the State of Missouri or the Confederate States of America; and that he will not give aid or comfort, in any way whatever, to the Government of the United States, or any of its armies, until he shall have been released. This parole is given upon the condition that the same may be surrendered at any time to the commanding officer of any military post of the Missouri State Guard.

Given at Lexington, Mo., September 25, 1861.

as my friend does? I forbear further remarks on this head, however, because I am already satisfied (since my speech on yesterday) that what is regarded as even a *less* doubtful guaranty of loyalty on the part of those in office will probably be required by a majority of this body.

The delegate from St. Louis did no more than I felt satisfied he must do, from his conceded character for intelligence and integrity, in declining to take up the gauntlet for the judge and the preachers in my county, who in *May* last, (as I showed on yesterday,) misled so many of the young and the uninformed to believe that Mr. Lincoln was in favor of "negro equality." And whilst the subsequent conduct of some of the friends and officers of the Administration may be liable to the criticisms which have been dealt to them upon that and other points of controversy, it is most confidently repeated that it was such early and persistent *calumnies* against the Administration that contributed most to mislead the thousands who flocked "across the river" to the ranks of Jackson, as the representative of "Dixie," which I understand to be the *exact* antipode of "negro equality." In that sense, I need scarcely repeat that I, too, will "live and die in Dixie." I disagree with my friend, however, who after rather grudgingly absolving the Administration from entertaining the purpose of "negro emancipation," avers that "there are multitudes of men, who have a controlling power over the administration, who are for it."

I need scarcely say, Mr. President, that I am in no other sense the advocate or even the *apologist* of an administration with no member of which have I ever exchanged either a line or a word, than in the subdued and cautious sense of rendering it reluctant justice, where honor and duty requires it at my hand. It is in that sense that I arraign the error of my friend, and point to the Presidential order for the modification of Fremont's proclamation, as evidence that the emancipation wing of the Republican party have not "a controlling power over the Administration."

Proslavery man as I am, however, both from association and from interest, I agree with my friend that he and I, and all of us,

were born to the inheritance of yet other rights more sacred than the right of property in the slave. He cites again the "*habeas corpus*," to which I will add the trial by *jury*, the right to *vote*, and, as more sacred than all beside, the rights of *conscience*, (religious *freedom*.) Show me that either of these are even in peril, and my friend shall approve himself the friend of *real* liberty beyond what I do, it will not be because I do not adore it with *all* my nature and all my heart. There never was a man, however, who wore a high commission amid the perils of an army, who had not the great *martial* right to place his district under martial *law*—placing his justification, of course, upon the necessity which confronted him, to be judged of by his superiors, who in their turn have to be judged of by the country. Jefferson justified or excused it in Wilkinson—Madison did the same with Jackson, and the country sustained them all. We shall see by and by what the verdict of the same country will be in respect to Lincoln and Fremont. In the midst of their exhausting contest for the preservation of the Union, I shall at least forbear unnecessary denunciation, where my judgment can not award its approbation.

I believe, Mr. President, that I have sufficiently replied to the arraignment of the delegate from St. Louis, except it may be in respect to his *assumptions* of my objects in desiring a more efficient enactment for the organization and government of our volunteer militia—and in respect to those assumptions, I may at least be pardoned for saying that I *know* the gentleman to be wholly mistaken. So far as my own purpose is concerned, the gentleman can continue to read by his fireside any newspaper that will best minister to his edification, or best comport with his sympathies or his taste, free from all apprehension of drafting or any other species of compulsion except that of his long-life obedience to "the Constitution and the laws." We shall probably seek no "*drafted*" Union men—but with as noble an army of volunteers as ever marched to the music of "Hail Columbia"—and with a law which will render them as efficient as regulars—we will drown out all *other* music in the yet loyal State of Missouri.

FOURTH DAY.

MONDAY, October 16, 1861.

Convention met at 10 o'clock A. M.

Prayer by Rev. Mr. Eliot.

Mr. HITCHCOCK moved to take up the ordinance reported by the Committee on Elections, stating that upon that motion he desired to make some remarks.

The PRESIDENT remarked, for the information of spectators present, that no manifestations of approbation or disapprobation, at any of the sentiments expressed by the speakers, would be allowed.

Mr. ZIMMERMAN, on leave, introduced the following:

Resolved, That all courts in the State of Missouri who refuse to discharge their duties, shall receive no pay during the absence of such courts, and that the limitation act shall cease during the absence of such courts, and that creditors on judgments, executions, bonds, notes and accounts, shall be entitled to the rate of interest agreed upon by the debtor, not exceeding ten per cent., during the absence of said courts; and where there is no agreement between debtor and creditor respecting interest, all demands, including accounts, shall draw six per cent. per annum. Referred.

The ordinance reported by the Committee on Elections was then read.

Mr. HITCHCOCK said: Mr. President, the action proposed by the ordinance which has been read, is the postponement of the election ordered to be held in November. The reasons for such postponement are the disturbed condition of the State, and the fact that apprehension is felt that no fair expression of the popular will can be had. I take it that upon that ordinance, the simple question of present fact will determine the action of the Convention. It is entirely immaterial to me who is responsible for anything that now exists when I consider the question whether, in fact—whatever causes may have led to it, whatever blame may rest on any quarter—whether, on the first Monday in November, a fair expression of the popular will can be had. If not, then it is as much the duty of this Convention to postpone that election as it was proper for this Conven-

tion to submit its action to the people. The majority of this Convention desire a fair expression. They did not think they were bound originally to appeal to the people, but they desired nothing more than that, at the earliest practicable period, the people of the State should be called upon to say whether they approved their action. Now, as to the fact of the case, so far as I know, nearly every member of this body, (coming from different quarters of the State as they do,) is cognizant of the condition of things in his section, unanimously declares that there can be no fair expression of the people whose action we invite, and that an election at the time proposed would be to invite the bloodiest contest which has yet taken place. In July, when we last met, we remember that among those who voted for the ordinance ordering an election in November, there existed a strong diversity of opinion simply upon this one point—not as to whether it was well to submit the question to the people—not as to whether it ought to be done as a matter of expediency, but as to when it could be soonest done with safety and justice. There were those, as will be remembered, who proposed to have the election in thirty days—others still, and myself among the number, who thought the election ought not to be held sooner than November. The Committee of Seven, who reported on the subject, foresaw more correctly than we the condition of things in this State. They said it would be impossible for an election to be held in November, and they were right. When that committee first made its report, we were taunted with the insinuation that we were afraid to submit our action to the people. All such taunts are beneath notice. I deny and treat them with the indifference they deserve. For myself, it will be the proudest recollection of my life to have acted with a body of men so wholly devoted as the Union men of this Convention showed themselves to be, when in session in Jefferson City, to the best interests and the truest welfare of their constituents, without regard to personal consequences in any way whatever. The Convention determined to submit its action in November, and what was

the result? I need not go over the circumstances which have followed.

The gentleman from Clinton has read the proclamation issued by a Colonel in the so-called army of Jackson, which plainly shows the manner in which it was designed to thwart our action. We were taunted with being afraid of the people, and we refuted the taunt by declaring our willingness to go before the people. We did not believe we were bound to submit our action—the best constitutional lawyers in the Convention triumphantly vindicated this position; yet we preferred to ask the sanction of the people; and what has been the result? A proclamation, not by this Colonel alone, but by his superiors, has been issued, declaring that we shall not have an election. The very outlaw who issued that proclamation declared that an army would track its path through the State in blood, and make widows and orphans everywhere—would annihilate the interests of Missouri rather than allow that election to be held. We know that on every side throughout this State these threats have been repeated, and repeated by armed and reckless and desperate men. We know that it is in the power of a few men, even in this great city, with its police and its soldiers, to convert an election precinct into the scene of a riot. What are we to expect, when the theatre of such reckless crime is the area of the whole State? A speaker who opposed this postponement of the election on Saturday, asserted that there were 50,000 armed men in Missouri on the secession side, and 20,000 armed men on the side of the Union. Without agreeing to their accuracy, accept his figures. Seventy thousand armed men expected to peaceably take part in an election—men armed on this very quarrel! Nearly half the voters of the State declared to be already in arms, glaring upon each other in eager anticipation of the strife—and yet the gentleman taunts the majority that they hesitate to call these men to meet at the polls! I repeat—it is immaterial who is to blame—if these things are so, an election cannot and ought not to be held. It would not be a farce—it would be a fearful tragedy. This Convention has a duty to perform in such a condition of affairs, which neither taunt nor gibe can affect. I envy not the spirit which inspires the sneer. Those who are driven in such a crisis to use such arguments for *their* purposes, are they rather to be pitied or condemned?

I have said thus much, sir, upon the general proposition contained in the ordinance reported

by the Committee for the postponement of the election. I desire, however, with the indulgence of the Convention, to notice somewhat more in detail the remarks made on Saturday last by the delegate from St. Louis, (Mr. Wright,) upon the resolution submitted by the gentleman from Clinton, (Mr. Birch.) The first of those resolutions was the same in substance with the ordinance now under consideration, and its introduction was made by my colleague—who, I regret very much to see, has not seen fit to be present this morning—the occasion for a most extraordinary address. Extraordinary in its assertions, still more extraordinary in its omissions of fact; extraordinary in the temper and spirit it displayed towards his associates in this body, at whom it was (in a parliamentary phrase) so “respectfully” directed—and most extraordinary, considering the position, the professions, the solemn obligations of the speaker, in the real purpose and object which to my mind shone out in every sentence and well-turned phrase. For myself, as one who has the honor in part to represent the same constituency who honored that speaker with his own high trust, I am not content that his harangue shall pass unnoticed. I trust to be pardoned by the House if I comment upon its positions.

The majority of this Convention, sir, were by this, their associate and self-constituted prosecutor, indicted and arraigned as “usurpers.” They were charged by him with having caused—he said “contributed to,” but he was careful to complain of no others—the present unhappy condition of this State. *Their* action had “irritated” and “exasperated” its people—and he could find, it seemed, no other cause or origin of irritation. The charge itself is of little consequence, nor can it borrow either dignity or weight from him who made it. It is nothing unusual for such a cry to be raised for a like purpose of misleading and defeating justice. But when such assertions are made on this floor, and since a partial statement of facts, and propositions which obscure the truth, are to be scattered broadcast over the land under the authority and as part of the proceedings of this Convention, it is proper, for the sake of those who might for that reason give them credence, that the blame shall carry with it the antidote.

Sir, what one measure of this Convention was pointed out by that speaker as having contributed to the disturbance of the peace of the State? Not one. The charge was broad and

bitter; but the gentleman ventured on no such specification. That charge was made against the majority of this body; it was intended as an attack on the Government of the United States. In terms, it opened by arraigning *us*; but the true point of attack was speedily changed. Nor could it have been for one moment supported. What were those measures, and whom did they "irritate?" Was it that, in the exercise of a clear and indisputable power—a power claimed in advance for this body (when they thought it would work out their meditated treason) by the very men who have since felt it—this body removed from office a Governor sworn to support the Constitution of this State and of the United States, but whose official acts showed, and whose correspondence, made public by this Convention, acknowledged that he was from the first, and in avowed opposition even to the majority of his people, engaged in a scheme which that very speaker (Mr. Wright,) in March last denounced as in violation and in defiance of both the State and the National Constitution? Was it that we deposed a man whose whole conduct showed him perjured and recreant to every official trust, and who by force and fraud was desperately attempting to thwart the popular will? Does the gentleman (Mr. Wright) presume to allege *this* as a cause of "irritation" to the people of this State? *Does he now endorse that Governor?*

Or was it, sir, that in the exercise of the same power, expressly admitted in favor of this Convention by *themselves*, we removed from office that Legislature who, in secret midnight session, with but half their number present, passed so-called "Acts," in utter and treasonable defiance of their sworn duty under the State and National Constitutions? Do we not know, both from the official journals of that secret session, and from the clear and authentic statement made at our July session by a delegate who was a loyal member of that Legislature, (Mr. Welch,) that a test vote was forced upon them and defiantly carried by their traitor majority, upon a proposition which was a *declaration of war against the United States*? You remember, sir, that section 167 of that infamous "Military Bill" made it the sworn duty of every officer and soldier of the "Missouri State Guard" to attack, disperse and disarm every assemblage of men in this State "*having the semblance of an armed organization,*" which was not organized under that Military Bill itself. You remember that with the express purpose

of testing the intent of this provision, an amendment was offered, excepting from its terms the troops of the United States, *within any post or arsenal within this State*, so long as they conducted themselves lawfully, and until the State of Missouri; by a vote of her people, should change her relations with the Union. *And you know that that amendment was voted down; and that this vote was had before the so-called "outrage at Camp Jackson" had occurred.*

Does the gentleman charge it as an "irritating cause" that we removed from office the men who thus sought to force the people into a war with the General Government? Does he approve *that conduct on their part*?

Or was it "irritating" the people of this State that we annulled those odious laws which that Legislature passed? Laws which plundered the public schools, robbed the asylums, established in time of peace a military rule in the interest and for the purposes of treason, and saddled upon a people already impoverished an extraordinary tax for military purposes? Does the gentleman himself, as one of the people, grieve that these wholesome enactments are not still in force?

Or did it "exasperate" the people that we sought at the earliest period for their sanction of our acts? Did not the gentleman himself vote for that measure? We did not hold, nor do we now believe, that our acts and ordinances required such express sanction for their validity.

But we desired, if it were possible, to destroy the last shadow of excuse for those who denounced us, and to show—as we were satisfied that a vote would show—that we acted not only for the highest interests but with the hearty approval of a large majority of the people of this State. Sir, there was no doubt as to the power of this body. Its powers were as ample as its duties were arduous. Its members were required to consider the Federal and inter-State relations of the people and Government of Missouri, and "to take such measures as *they might deem expedient* to vindicate the sovereignty of the State and for the protection of its institutions;" and there was but one thing which it was required—if passed by them—should be submitted to the people, namely, *an ordinance of secession*. And as was shown in July last by the gentleman from Clinton (Mr. Birch,) such men as Rains, and Harris, and Vest, and Ament, in the debates on the Convention bill, expressly declared that in their opinion the Convention *could do what it*

pleased—"could abolish the Legislature itself, or even the State Constitution." Sir, the gentleman (Mr. Wright) on Saturday declined further to discuss this question of power. He said it had been exhausted at our last session. So it was. And if he is content with the result of that discussion, certainly we are. He won no laurels there. But while we never doubted the power, we expressly avoided its exercise save so far as it should be forced upon us by events.

I do not doubt, sir, that there is one party who have been "irritated" by the acts of this Convention. They have been so from the first—disappointed, chagrined, astounded, dismayed, furious! Everything it has done, and what it has refused to do, has "exasperated" them. Who are that party? They are those who from the first have sought to destroy this beneficent Government—the secession party of Missouri: with all those who, through fraud or fear, deceived, deluded or overawed, have been brought to join them. That party we have not expected, we have not sought, to please after their fashion; for if we had, it would have been equally a betrayal of our pledges and our trust. For them we have but one desire: that they may see the criminal and suicidal error of their course; that they may lay down their arms, and return to their just allegiance. Until they do that, their "irritation" will no doubt continue. Was it on their behalf that the gentleman spoke?

But, sir, the gentleman complained that this Convention has given up the consideration of the Federal relations of Missouri. Did we not in March last act upon that subject? Had we not then the privilege of that gentleman's aid, and his luminous exposition of these relations, their just principles, and their philosophy as well? Did we not then solemnly declare, *and the gentleman with us*, that those relations should not be disturbed; that there was no cause for the "secession" of Missouri? Did we not once and forever dispose of that question—and does the gentleman desire to repeal that action or to change his ground?

Having thus considered the Federal relations of the State, and declared that they should remain inviolate, we did proceed "to vindicate its sovereignty and protect its institutions" against its own faithless public servants. We did not hesitate, in the language of the Chairman of the Committee of Eight, (Judge Gamble,) in July last, to "brush away everything" that sought to interfere with those relations,

or to assault that sovereignty. Is it for this, sir, that the gentleman denounces the majority of this Convention?

But the gentleman hastened to the real purpose of his attack—his diatribe on Martial Law. He announced a great principle—that liberty could not exist save under the supreme dominion of law. Sir, we agree in that great truth. We desire nothing better than its application. We have contended for nothing else—we needed nothing else. But the gentleman and those who sympathize with him are careful to forget who it was that trampled on all law and Constitutions in Missouri. They have no complaint of the Governor and his band of conspirators in office, who, with rebellious hands, have struck down both Law and Liberty. And we, forsooth, were and are to sit with folded hands and suffer this sacrilege. I know, sir, that it was argued with all the ability and all the plausibility of the speaker, that a man might contend with all his might against the Government, without being disloyal to the Constitution. "God forbid," cried he, "that I should join the army of Jackson." Sir, I can almost imagine an echo of that adjuration softly wafted back from the confines of Arkansas: "God forbid that you should join our army—stay and help us where you are!"

Now, sir, what about this Martial Law—the chief count in the indictment against the majority of this body? Is it not an honorable and ingenuous charge? What member of the majority had anything to do with the establishment of Martial Law in Missouri? Which one of us proposed, or asked, or desired it? Which one stirred up those atrocious acts of rebellion that brought it about? Is it to be doubted what was the purpose of that bitter harangue, when the action of a military officer of the United States, wholly independent of this Convention, and without consulting one of its members, is paraded as one of the means by which *our* measures have "irritated" the people? Was it meant to rebuke us—or only to inflame the people against that Government? So far as the majority of this Convention is concerned, the remarks of the gentleman do not touch them, whatever else these remarks may do.

But I do not propose, sir, to evade the question thus raised. I am quite willing to discuss the gentleman's views on martial law as it exists among us. Whom does it in fact affect? Against whom was it promulgated? Has it displaced or closed our Courts, in the transaction of their regular business? Has it laid its

stern grasp upon the ordinary business of the community, or interfered with the detection and punishment of crime? The gentleman knows that it has not. It, and it alone, has enabled these things to go on in our own city. And outside of this judicial circuit, if it has disturbed a single Judge, it has been those who have descended from the bench and deserted their own trust to take up arms against the Government they are sworn to support.

But against whom and upon whom does this Martial Law operate? The gentleman himself, referring to those who have been confined as prisoners at the Arsenal, said that some of them were *undoubted traitors*. I apprehend it is not on their behalf—those whose treason the gentleman himself expressly asserts, that his complaint is made. He speaks of innocent men who have been unjustly arrested and confined. It may be true, sir—I know not—that there have been mistakes made, and men may have been arrested as disloyal who were not so. If it be so, I regret it deeply—every loyal man regrets it. But this proves what? That with the administration of martial law, as with that of civil and criminal law, there are evils and hardships inevitable under any human agency. The men whose cases the gentleman mentioned, it seems, have been released. He says that unjust accusations have been made against the Provost Martial himself to his superior. Why, sir, our criminal code provides that a prisoner, charged with crime and confined in jail, who is not arraigned for trial during two terms of the Criminal Court, shall be discharged. This is simply a confession by the law-makers that innocent men may be arrested on false and malicious testimony, whom even a writ of *habeas corpus* cannot release, but whom the prosecutor will not or dare not pursue; and when such a case happens, what practical remedy has the sufferer for his annoyance, his imprisonment, the injury done him? He may have absolutely none. We regret it, but it cannot be helped. And has the gentleman himself, in his large experience of civil actions for damages, never heard of actions brought by private malice or private cupidity, by which the unfortunate defendant was put to great expense, was forced to employ eminent counsel, to procure testimony at great cost and trouble, and perhaps to be mortified at the public discussion of his fair fame, even though he succeed in repelling the attack? And though in such a case the villainy of his opponent were exposed with disgrace, would

that compensate him for the vexation and the loss? But is this an argument against civil law and trial by jury? Unless it be charged, which it was not, nor I imagine can be, that the purpose of the officer administering martial law is to vex and oppress the loyal citizens, these things are but the lamentable incidents of that for which, not the Government, but its enemies themselves are responsible. I remember, sir, an incident related to me last summer by the Commandant of the Military District, comprising the Missouri river. He found it necessary at one time to seize all boats and barges along the river to prevent the insurgent forces from crossing. To one man, no small part of whose little property was in his barge, he said: "I must take your boat and sink it, for the necessity of the Government requires it." "Take it," said the owner; "I only wish I had a hundred to give up for the Union!" That is the spirit in which some men meet these necessities. There is another spirit, which dwells upon and exaggerates every necessity, every hardship, every mistake, even though it be repaired as soon as it is ascertained.

I know the answer to all this: That martial law strikes at the principles of individual liberty, because it suspends the *habeas corpus* act. But, sir, are there no periods when the public safety is of higher importance than even the liberty, for a time, of any individual? Why, the Constitution of the United States itself anticipates such a necessity—for it provides that the privilege of the *habeas corpus* may be suspended in case of insurrection or invasion. The gentleman says of that privilege—"It is the dearest right that belongs to a freeman, unless it is that other right, to think and speak whatever he pleases. Lincoln does not indorse the emancipation of Sneed's slaves, but he does indorse a defiance of the Judiciary, by abolishing the writ of *habeas corpus*." And yet, the Chief Justice of the United States, the same man who recently gave an opinion in the Merryman case, did on the bench decide in the so-called "Rhode Island case," as that court had decided in other cases, that under the power vested in him (by the act of 1795), to call out and employ the militia to suppress insurrections, the President is the sole and exclusive judge of the necessity for its exercise and the mode of its employment; and that for the judiciary to interfere in such cases, even by the writ of *habeas corpus*, to release those who were arrested by the authority of the President, as hostile to the

Government, would make that judiciary "a guarantee of anarchy and not of order." So that judiciary itself has declared, when the public mind was not excited as now; and that is its true position.

But this is no new question in the history of our Government. Allusion has already been made by others to the case of Gen. Jackson, who declared and enforced martial law at New Orleans in 1815. He was afterwards fined by Judge Hall for contempt of Court in refusing to obey a writ of *habeas corpus*. He chose to pay the fine, and protected the Judge himself, who imposed it, from the excited people who justified his own course. But nearly thirty years later, in the midst of another generation, in a time of profound peace, a bill was passed in Congress to refund him the amount of that fine with interest: and it was entitled "A bill to indemnify Maj. Gen. Andrew Jackson for damages sustained by him in the discharge of his official duty." That bill was debated in the Senate of the United States in January, 1843, by such men as Linn of Missouri, who reported it, and Buchanan, and Berrien, and others. The whole question of martial law was discussed; and the friends of the bill refused to permit its passage except *with that title*. They would not accept a bill "for his relief"—they said he was rich enough; nor "in consideration of his services"—which they said had already been rewarded. They wanted the Senate to declare that *he had done right*. They would have that or nothing. The Senate of the United States did so declare by its vote, and among those who voted for the bill on its passage was that strictest of all strict constructionists of the Constitution—John C. Calhoun. Thus, sir, the Senate of the United States, upon full debate, thirty years having intervened, deliberately sanctioned the declaring of martial law by a military officer, on the ground of high public necessity. And, as was remarked by Senator Linn of Missouri, in that debate—"the course of General Jackson was approved by President Madison at the time." Now, sir, the gentleman himself has told us who and what Madison was. He said—and I agree with him—"But Madison was not only a patriot, but a great deal more. He helped to make the Constitution of the country; he knew how it was made—every timber, beam, and foundation stone about it." And yet this patriot framer of the Constitution approved the declaration and enforcement of martial law at New Orleans.

But the gentleman alleged that there is an almost universal "conviction over this whole land, that the Administration is at war with the principles of civil liberty!" Sir, the assertion is astounding! What evidence is there of such a "conviction?" Is it in the unprecedented unanimity with which all loyal men, forgetting past party ties, have flocked to its support? Is it in the hearty concord of Democrats and Republicans alike, in Congress and out of it?—in the fusion of all parties in New York, Ohio, and Pennsylvania, into a great Union party, pledged to the war for the support of the Government?—in such exhortations as that of Dickinson, the Nestor of the New York Democracy, a supporter of Breckinridge in 1860, when he declared that if the President had not acted as he has, he would have deserved impeachment? Sir, no Administration in our history ever received such a support from the people—not even in the war of the Revolution.

But the great grief the gentleman had was that, in submitting to martial law, we are departing from the lessons of the fathers. He said:

"I object to all these restrictive measures, not only because they are unconstitutional—that is enough, God knows, to condemn them—and I say they are not only criminal, but, taking up the ethical philosophy of Walpole, I say they are worse than criminal—they are a blunder. All these restrictive measures—test oaths—the declaration of martial law—the suspension of the *habeas corpus*—the law defying the courts of the country—all these measures are measures of weakness and not of strength. You see this in the arrests which have been made upon the ground of necessity. I have shown you heretofore that necessity can never be the origin of power in a free government, and that if you get the power from necessity, the exercise of that power brings you weakness and not strength."

And again:

"Encroachments must be resisted at every step.' 'Oh, no!' say the patriots of the present time, 'When the Fathers said so they were mistaken. A temporary supineness is just now upon the Constitution, but by-and-by we will set it up all right!' Setting up the Constitution will be like setting up a broken reputation; it is like some other things—when once degraded, lost forever. When the people of America accustom themselves to look upon a violated and broken Constitution, especially

when broken and violated from the most dangerous source of the Government, the Executive, all liberty is gone. * * * Martial law makes a Dictator. Are you willing to live under a Dictator? If you are, I am not.

* * * * *

"Now, we must have a Dictator, and be just as still as mice when cats are about, fearing one of those feline paws will be laid upon us with a claw in the end of it. Is that the spirit of American freedom? I say, with Walpole, 'this is worse than criminal—it is a blunder!' All such things chafe and gall the American heart, and you can awaken no enthusiasm in the human breast to fight under such circumstances; and I do not think they ought to fight at all except for liberty."

Truly, "these are brave words." It is impossible not to pardon something, as Burke said of the New England people, to the spirit of liberty, or to the loyal allegiance which the gentleman professes to hold, in these evil times, to *"the principles of the FATHERS."* So, too, the gentleman told us about the proposition to make Patrick Henry Dictator when he was already Governor of Virginia; and about that "republican dagger" which "his friend Corbin" was going to plant in his heart. It happens that it was not Corbin, but Cary, whom the gentleman meant; and the "*republican dagger*" is a bit of rhetoric which history does not put into his mouth. But I prefer, Mr. President, to look into the *practice*, or at least the acts and doings, of "the Fathers;" and the gentleman must read the history of his country—or relate it—a little more accurately, if I am to follow him. What did the Fathers of the Revolution think about martial law in times of civil war—about the *habeas corpus*—about a military Dictator? What did they think about the "weakness" which such remedies bring, according to this, their faithful student and follower? I beg to read a dry statement of facts, from the first volume of Curtis' History of the Constitution of the United States, at page 99:

"Washington felt that the time had come, when to his single hands must be given all the military authority and power which the Continental Union of America held in trust for the liberties of the country. On the 20th of December, therefore, he wrote to the President of Congress a memorable letter asking for extraordinary powers, but displaying at the same time all the modesty and high principle of his character.

"To this appeal Congress at once responded in a manner suited to the exigency. On the 27th of December, 1776, they passed a resolution vesting in Gen. Washington ample and complete power to raise and collect together in the most speedy and effectual manner, from all or any of the United States, sixteen battalions of infantry in addition to those already voted; * * * to take, wherever he might be, whatever he might want for the use of the army, if the inhabitants would not sell it, allowing a reasonable price for the same; to *arrest and confine persons who should refuse to receive the Continental currency, or were otherwise disaffected to the American cause*; and to return to the States of which such persons were citizens their names and the nature of their offences, together with the witnesses to prove them. These powers were vested in the Commander-in-Chief for the space of six months from the date of the resolve, unless sooner revoked by Congress."

Thus you find, notwithstanding all the talk about "the Fathers," and Patrick Henry, and so-forth, that the naked historical truth is precisely the reverse of all that the gentleman would have you infer. It is true that the project to make Henry a Dictator failed. That was broached in the Virginia House of Delegates in the month of November, 1776: and only one month later, in December, 1776, George Washington asked the Continental Congress for Dictatorial powers—and they granted them instantly. Yes, in less than six months from the date of the Declaration of Independence, which "thundered"—says the gentleman—"against Martial Law!" Remember, too, that that Congress acted under no Constitution like ours, expressly providing for such a necessity. That Congress was a mere Revolutionary Committee, made up of Delegates, acting under diverse and often meagre instructions—long before even the Articles of Confederation were adopted. Yet they gave George Washington, *by a simple resolution*, the powers of a Military Dictator, and at Washington's own request! On what principle was this done? Let the historian answer:

"The powers thus conferred upon General Washington were those of a military dictator: and in conferring them, the Congress acted upon the maxim that the public safety is the supreme law."

Was it by chance, sir, that this same principle was selected as the State motto of Missouri? Look on her coat of arms and read it:

Salus populi suprema lex ESTO!

Not a mere barren maxim, but a mandate to her servants. "LET the public safety be the supreme law! Well might the Governor, in his communication to this body, the highest embodiment of the sovereignty of the State, point to that mandate as our guide. But we can imagine, sir, the patriotic, the liberty-loving stand the eloquent gentleman would have taken if he had been in that Congress of 1776! How he would have thundered against martial law!" How he would have denounced dictators—even though the Dictator were a Washington! Ah, sir, it is a pity, is it not, that the gentleman was not himself "one of the Fathers?"

But enough of martial law. No man pretends that it is or ought to be other than exceptional—utterly exceptional in its application. Nothing but an over-ruling necessity can justify it—nothing less than the preservation of the Government or its authority. You can give no rule for its fitness or necessity; and the President who orders or permits it to be proclaimed, does it at his own peril, and upon his own ultimate responsibility before the people. When that necessity has passed away, he must account for its exercise. That was the theory of Washington, who said in his reply to the letter from Congress transmitting that resolution:

"Instead of thinking myself freed from all civil obligations by this mark of their confidence, I shall constantly bear in mind that as the sword was the last resort for the preservation of our liberties, so it ought to be *the first thing laid aside when those liberties are firmly established.*"

Such, sir, were the views which the Father of his Country entertained about martial law; the views of a wise, and bold, and practical statesman—and one who is supposed to have loved liberty, and known its principles, quite as well as any theorizing rhetorician of our times.

There was another count in the gentleman's indictment—on the subject of slavery, and emancipation. Was it fairly and candidly put? Was it not full of lurking suspicion, and mischievous suggestion, even while it disclaimed any intention to be unjust? I quote his words:

"The gentleman from Clinton has declared that this war is not waged for the emancipation of the slave. I do not do the Administration injustice, if I know it. *I trust* there is no latent purpose to carry on this war, having as a direct end, or as an incidental result, the

emancipation of the slave; but if the Administration are clear of that crime, *there are multitudes of men who have a controlling power over the Administration who are for it.* I was glad to see the reply of the President to the proclamation of Fremont; but what are the terms of that reply? Is there any intimation that the proclamation was inconsistent with the liberties of the country? Not at all. He declares that he supposes that Fremont, being upon the ground, can better judge of the affairs than he can at Washington; but that it would be better, in reference to this proclamation, to conform to the act of Congress on the subject of confiscation. That is all. There is no direct rebuke of this military satrap, who, without the authority of the Federal Government, comes to our shores, and proclaims that he has the power to emancipate slaves."

Now, if the gentleman believes that those who *control* the Administration are for general emancipation, how was it, as he asserted five minutes after, that *one man* in Kentucky, Joseph Holt, had by his letter to the President caused a change in the policy initiated by Fremont? And why does he carp at the phraseology of the President's letter to Fremont, when he knows, or ought to know, that Holt's letter to the President (to which *that* was in fact a reply, and was sent to Holt by the President as such) expressly put the complaint of Kentucky Union men on the ground that Fremont had gone beyond the law of Congress! Holt said nothing about "the liberties of the country." He said all loyal citizens *approved* the act of Congress confiscating the property of rebels used by them in the war. But he complained that Fremont's policy would injure loyal men in Kentucky by setting free among them the slaves of rebels, *which was more than the law intended.* The President's letter was a direct reply, in fact, to this, and was all the reply that it needed. I am sorry to be obliged to notice these details—but if the gentleman don't choose to be accurate, I must. The fact is, if the gentleman had been permitted to dictate every word of the President's letter himself, he would still have found fault with the punctuation.

Again—he asserted that those who have a controlling power over the Administration are for making this war one of emancipation! Did he not *know* that within ten days past that very proposition was embodied in a resolution offered in the *Republican* State Convention of Massachusetts, held at Worcester; that Charles Sumner was there to urge it, and did make a

speech in its favor; and that that Convention *refused to consider the resolution!* This in Massachusetts, the home of "abolitionism!" Did he not know that the Republican press of that State has strongly sustained that action of the Convention as just and wise—has condemned and denounced Sumner for the attempt—failure as it was—and has declared (I refer to such leading Republican organs as the *Boston Advertiser*, the *Boston Journal*, and the *Springfield Journal*) that this war for the support of the Government, and of the full constitutional rights of all the loyal slave States—and *not* for emancipation. Why, sir, all these facts and these sentiments were republished in this city, in the *Missouri Republican*, not three days ago—and yet the gentleman in his fair and honorable assault on the Administration and those who control it, as he says, never alluded to them.

But in his vindictive assault upon the Government, the gentleman broached a theory of constitutional law which was only less monstrous than absurd. I quote his words again :

"The measures of this Convention—the institution of the Home Guards, the illegal assembling of a body that had no right to assemble at all—are bad enough in themselves; but I beg you to remember that there is no more constitutional power in the Executive of the United States to redress a wrong committed by one citizen of the State of Missouri upon another than belongs to the Emperor Napoleon or the Czar of Russia. It would be just as right for the *gens d'armes* of Napoleon to come here and redress wrongs as for the *Federal soldiers* to do so. Why is this? Because Missouri regulates her own affairs. In the language of the report of the Committee made at Jefferson City, she manages her police and internal affairs in her own way. When the President of the United States declares that the driving off of a Union man by Secessionists is an outrage and takes the remedy into his own hands—I deny his right to do so. Protection is in the *State Judiciary*, and not in the *military arm*. The remedy is by indictment, and by civil action. The framers of the Constitution acted upon such a principle, and the General Government has no right to interfere and organize a legal tribunal. Who could not foresee that the moment the attempt at unauthorized interference was made it would bring on civil war among us?"

I see before me, Mr. President, those who have been driven from their homes by armed

rebel bands, and who are so kindly and "respectfully"—oh, most respectfully—alluded to by the speaker on Saturday, as "refugees." Unfortunately they *are* refugees, flying from before the army of what our ex-Governor called a "foreign State"—driven from home, threatened with death, unable to return to where their families and all their interests are, for fear of summary execution at the hands of those lawless marauders. I see these gentlemen before me, members of this body—and they are told by my sympathizing colleague, who rests safely at home under the protection of the martial law which he so bitterly denounces, that they have no right to call upon the President of the United States for any protection whatever. And they have the consolation of being informed that they must look to the judiciary for redress. You, sir, (the speaker addressed Judge Orr,) who can not hold your court in Greene county, because of twenty thousand armed men there, are coolly asked—"Why don't you call your grand jury together?" Why, sir, is such talk as this serious, when the Judge is driven from his home, when neither grand nor petit jury can assemble, nor court be held, nor process be issued, for fear of death itself, speedy and cruel? How bitter the scorn with which these gentlemen are selected—perhaps not intentionally, for it was said "with entire respect"—and taunted with their misfortunes! And what, my friends, are *your* feelings—refugees, plundered, driven from home as you are—when you receive the information that you must go before the grand jury, or bring your civil action for damages, to be protected! How monstrous is such a proposition as this—and it comes from a lawyer! Sir, if this *were* the law—if this were true of the Constitution of the United States, it would be enough to silence every word that has ever been uttered in its praise. Not so is the plain language of that Constitution, or of the act or Congress of 1795, passed in pursuance of its provisions, as interpreted by the Supreme Court. The gentleman, as I happen to know, is familiar with the celebrated case of *Martin v. Mott*, in which the Supreme Court decided that whenever the President himself believed the fact to be that combinations existed in any State against the United States laws, too powerful to be put down by ordinary legal means, *he was bound* to call out the militia and suppress the insurrection.

Again, there was a very careful distinction

made between "fealty to the Constitution" and "fealty to the Government;" and we were told that the one might destroy the other. Now, sir, the plain and honest truth is that no man can be loyal to the Constitution without being loyal to the Government which is formed under that Constitution. But it is also true, that loyalty to the Government does not always imply or require either admiration or approval of every act of every officer of that Government. Is it possible that any man of common sense needs to be told of this distinction? There have been acts of high officials in this department which many loyal men do not consider calculated to promote the best interests of the Government. I have never surrendered my right of private judgment. I claim to have that right and to exercise it. But for that reason I do not think it necessary for me to be a traitor to my country.

In short, sir, the spirit and tenor of that whole speech, whatever was the inmost purpose of the speaker, was simply and plainly an attack upon the existing Government of the United States, and an effort to break it down. It is by just such speeches as these, by such unsound arguments, by such perverted facts, such inflammatory appeals to the noblest sentiments of our nature, that—as the gentleman from Clinton justly said—rebels are made all over the State. For that reason, and because the position of the speaker gave it a prominence and circulation to which its merits do not entitle it, I have noticed it thus in detail. Many a generous, high-souled youth, meaning in truth no wrong, but thus cruelly misled, has been seduced into the most enormous crime of which a freeman can be guilty. And I know of at least one case, occurring in this city but a day or two since, where such a youth, on the eve of joining Price's army, was brought by a kind and thoughtful word to pause and reflect—and reflection saved him.

I may be pardoned, I trust, for alluding to a matter in which the gentleman took notice of myself—a very generous and candid notice. I was mentioned as having introduced a resolution looking to confiscation. The gentleman supposed I had been reading Motley's History, and had perhaps obtained there the idea of that resolution from the policy of "one of the greatest bigots and tyrants that ever lived;" who, it was said, raised a revenue by confiscation, and was the only instance of the kind in history. That was all the notice I had the honor to receive, but it was just enough for

a purpose—shall I say *the* purpose? Now, the resolution I introduced, as the gentleman knew very well, did not aim at confiscation for any such purpose, nor in any such spirit. I stand on that resolution to-day. It provided that every person in this State, who, *after a reasonable time shall have elapsed, shall be found employed in aiding the rebellion*, shall lose his property. It did not provide for confiscating any man's property except those who shall disregard a sufficient warning, and shall persist in open rebellion. It touched no man for his opinions, nor for any act in the past. It did strike at *acts* in the future. And in my opinion the man who claims that this principle is wrong or unjust when applied to open and active and persistent rebellion, is very far gone in sympathy with that rebellion himself. The true and obvious purpose of that resolution was, first of all, to deter men from opposing the Government, by showing them that they could not renounce their duties to it without losing their rights under it. And the highest success of such a measure would be achieved if it prevented, by its own operation, the confiscation of a dollar.

[At this point the hammer fell. Mr. Henderson moved that the speaker have leave to proceed, and leave was unanimously granted.]

MR. HITCHCOCK. I thank the Convention for this courtesy, and will tax their patience but little longer. It was said that the case of that "bigot and tyrant" whom Motley has made immortal in infamy, was the only instance in history of the raising of revenue by confiscation. The expansive historical knowledge of the gentleman leaped at a single bound through all recorded time, and he could find but one single instance, and that was the act of a "bigot and a tyrant." Now if the gentleman will stoop to examine with me the acts of those same old "Fathers of the Revolution," of whom he thinks so much and knows so little, he will find that *they* resorted to this plan of confiscation as being efficacious, just and right. Nearly every colony passed acts of confiscation. Rhode Island, in November, 1775—before the Declaration of Independence—through her Legislature, passed acts confiscating by name the property of individual Tories for acts already committed—among them, Governor Hutchinson, of Massachusetts. The same Legislature passed acts decreeing both forfeiture and death to those who should *furnish supplies or open correspondence with the enemy*. I find also that in 1777 Congress passed a resolution

recommending the States to confiscate the property of Tories. In January, 1778, in the Legislature of the gentleman's own native State, Thomas Jefferson drafted, introduced, and passed a bill to sequester British debts. It was a bill liberal in its features, but it was a bill of sequestration. And, not to go into further details, so general had this remedy been, that in the Treaty of Peace and Independence in 1783, between Great Britain and the United States, there are three articles relating to this very subject. Those articles stipulated for the remission of forfeitures against "real British subjects"—that is, those residing in England or in other than our own colonies; and that Tories should have twelve months allowed them to try and get back their confiscated estates; and that Congress should recommend to the several States to restore such estates on payment by them of the *bona fide* price which any purchaser since the confiscation may have paid.

So much for what "the Fathers" thought of this "bigoted and tyrannical" policy. I am not disposed to go southward for examples, or I might allude to that most rigorous and sweeping confiscation act which has *already passed* the so-called "Confederate Congress," which affects not only all who bear arms against them, but all who reside out of those States, and all who will not take the oath of allegiance. Yet the gentleman had not a word to say about *that*.

I desire to correct some errors and assumptions into which the speaker fell in regard to the Military Bill adopted by this body in July last, its deficiencies, and what he claimed were its effects. We were kindly lectured on our sad blunder in supposing that freemen would volunteer under any military bill we could pass—and so forth; and it was taken for granted that the amendments now proposed were intended to force enlistments. The simple truth is that the Governor has already many more volunteers than he has arms for as yet, and that no apprehension on that score is felt whatever. Free men volunteered in 1776, under a military dictator. They rallied around Jackson in 1815, in spite of Martial Law. They are rallying now, and that rapidly, in Missouri. The gentleman will find that the defects of the present Military Bill are defects of machinery for organizing men, no matter how numerous, into an effective army. Regulations are needed—articles for discipline—boards of examination, and other details, such

as Congress acted on in July last for the United States army. These defects were well known in July last, when the old law of 1859—a law made for peace—was adopted. They were not remedied then because we earnestly hoped never to need a State army, and desired to do the least that we could help that even looked like preparing for war. Since then the issue has been forced upon us. Our efforts for peace are scorned—an invading army is within our borders—our proposed election is to be broken up by force. We have no alternative but to meet it as we ought.

Enough of all this. I have already trespassed too long on the kindness of the Convention. If I were to retort the attack thus recklessly made, it were easy to arraign my colleague, and call on him to hold up his right hand and plead guilty or not guilty to the charge of unfaithfulness to his own high trust. He gave us his defense, indeed. We were told that when we could not see clearly what we ought to do, we should do nothing. Why has not the gentleman done nothing? We should have been glad to receive that much aid. He told us that if he were a physician, and were called upon to prescribe for a patient who had inflammation of the brain, he would not bleed him lest the patient should die; he would do nothing at all. The parallel might be expanded. We might liken the State and the Union to a patient. We might remember how, in February last, the doctors were called together; how one of them at least came forward and declared himself able to give advice; how he exhibited his diploma, and made long quotations from the books, and showed himself profoundly versed in all the principles of the system with which he was to deal; how he had no doubt nor hesitation—no, not for a moment—in prescribing for the case; not only for that attack, but for a future constitutional regimen which should prevent them for evermore.

I remember how in March we felt gratified to find that we had in Missouri a man who could go outside of the State, and tell in advance what a National Convention ought to do to remedy the public disorders. But the patient grew worse—and the doctors were called to consult again. Naturally the eyes of the public turned to those who showed themselves so proficient in learning, so able, so skillful, so ready, to know what could be done. They remembered one who especially declared that something must be *done* for the Union—that talking was no good—that unless a man could

give up every prejudice, every association, every preconceived opinion for that sacred cause, he was no Union man. But the patient was now desperately ill. Somehow, the physician began to lose confidence—thought there was no remedy—thought it was but to do nothing at all, but trust to the *vis medicatrix naturæ*. Did the physician stop there? No! he not only denounced those who thought there was yet a remedy, but he excited the patients against him. Was it kind, was it wise, was it like a good nurse, to conjure up before the delirious and fevered brain new images of horror? Now we are called together again, and what is done? The case is bad, the danger great: his advice is, do nothing! Is that all? No; we find the bandages are torn off, the gaping wounds exposed; and while the delirious sufferer is held back by the kindness of friends from that liberty which would end in suicide, we find this physician, instead of endeavoring to soothe his excitement, addressing to him such language as this: "You are a free man—claim your liberty! You are not worthy of it if you do not rise from your bed, and take every means to increase the fever and bring on a speedy dissolution!"

Mr. President, I trust, in all truth and kindness, that the day may not come when to any man who has stood in this hall, and taken the solemn oath that we took—I trust the day may not come when the spectre of a ruined and murdered country shall rise before him in the visions of the night, to haunt him with the sense of duties unperformed—of awful responsibilities unmet. I trust that from no lips that have spoken here may be wrung by such a vision, as from the guilty Thane of Cawdor, the passionate, remorseful, unavailing cry—

"Shake not thy gory locks at me;
Thou canst not say I did it."

Mr. BRECKINRIDGE offered an amendment providing that the provision of the ordinance passed by the Convention at its session in July, for the purpose of regulating elections, shall apply not only to the elections which are to be held under that ordinance, but to any other special election which may in the meantime be held. Adopted.

Mr. ALLEN offered an amendment striking out from the third section the words "until the qualified voters of the State shall approve or disapprove the action of the Convention." Mr. A. said he had no doubt that when this election was held, so far as the disloyal por-

tion of the people are concerned, that would be the only question upon which they would vote; and that in the event of their succeeding, through fraud or otherwise, in obtaining an apparent majority, it would place us in the position where we originally stood, and consequently establish Jackson as Governor of Missouri. He felt willing to shoulder the responsibility, so far as his constituents were concerned, which might attach to this amendment.

Mr. BRECKINRIDGE was opposed to the amendment. The Convention at its last session considered this matter, and agreed to submit the question to the people for approval or disapproval. The action was thought by many to be unwise; but it was desired by the Committee on Elections, at the present time, to make our action conform to that of last session.

Mr. BOGGS moved to refer the bill and amendment back to the committee.

Mr. BRECKINRIDGE hoped the ordinance would not be recommitted. He thought it would be well to begin to accomplish something.

The amendment was then disagreed to.

Mr. PIPKIN stated there were two vacancies in the Committee on Accounts.

The PRESIDENT appointed Messrs. Vanbuskirk and Allen to fill the vacancies.

Mr. McFERRAN offered an amendment to the second section of the ordinance postponing the election, proposing to dispense with the submission of the action of the Convention to the people. He deemed it impracticable to submit their action to the people. If the action of this Convention should be disapproved by the people, through fraud or otherwise, it would result in the complete overthrow of the government of the State.

Mr. HENDRICKS moved to adjourn until 3 o'clock.

Mr. HENDERSON hoped the motion would not prevail, as he desired action upon the amendment at the present time.

Mr. GANTT suggested that they could dispatch more business by having but one session a day, commencing at 9 or 10 o'clock A.M., and sitting till 2 or 3 o'clock P.M.

Mr. HUDGENS said the plan was tried last session, and was not found practicable.

Mr. HENDRICKS' motion to adjourn was lost.

Mr. HUDGENS. I have occupied my seat here and taken but little part in the proceedings,

but I am satisfied that the proposition to postpone the election from November until August next, is a confession of judgment. I take it as such, and as an acknowledgment that the people of Missouri are opposed to the Convention, and will vote its action down. We have been told again and again, that those opposed to the action of the Convention would prevent a fair expression of the popular will; but only one man, it seems, has yet been cited as having made this declaration. Suppose one man in Missouri has said the State shall run with blood—one man or two men may say the same thing, but it would be no excuse for the Convention to further postpone its action. If you have the power to postpone until August, 1862, you have the same power to postpone until November, 1892. Is it any excuse why the Convention should withdraw the election from the people of Missouri in November simply because of the fear the people will not acquiesce in its action, or because one man has said that armed resistance shall be made? The proper way to meet the issue is to go before the people themselves. When the proposition was made to appoint a Governor, it was first proposed to hold him in office but thirty days, and then let the people decide upon it. Then again it was proposed to have the election held within the time allowed by the Constitution. But when the great pulse of the people of Missouri has been felt, and when it is ascertained that they are opposed to the action of the Convention three to one, then it is proposed to postpone it until August, 1862; and not only that, but it is also proposed that the people shall not pass upon it all. We have the power in our hands to hold office. We are here a bare majority, scarcely enough to do business, and yet we declare that we have the power to say that 200,000 voters in Missouri are not competent to attend to their own business, or pass upon our action. What is the reason there cannot be a fair vote? There certainly can be a fair vote upon the north side of the river; and is there a single county in the State where it cannot be done? Not a single rebel commander, as the term goes, exists in the northern section of this State, that I know of. In the district I represent, I am satisfied a fair election can be held, and that the people are ready to vote on the issues; and I presume it can be done all through the State. Are we to say that the people shall not go to the polls after it has been determined that our action shall be submitted to them? Are we to say that they

shall not vote because we think they, as free-men, will not do right at the polls? I am willing, so far as I am concerned, to let them pass upon the acts of the Convention, and allow them to dispose of it as they please. The making of a new Governor was no unimportant matter; and shall we multiply our difficulties still further by postponing the election till August? I say, let the people vote at once.

MR. STEWART. I am not surprised that the gentleman from Andrew should admit that he is willing to leave the whole proposition to the people. I very well recollect the part which the gentleman played in his section of the country, at St. Joseph and Savannah, after the Convention at Jefferson city. I remember how he was connected with the notorious Jeff. Thompson, and how he declared on one occasion, in his own Campbellite church, that I ought to be hung; and how he endeavored to incense the citizens of Savannah against me, and prevent me from tearing down his ragged secession flag, and raising the Union flag in its stead.

MR. HUDGENS. If the gentleman will allow me, I will state that he is laboring under an entire misapprehension. I never said or did anything of the kind.

MR. STEWART. I am assured the gentleman did make a speech as I have stated.

MR. HUDGENS. May I be permitted to explain? The speech to which the gentleman alludes was made in my own city of Savannah, on an occasion when a large company of Germans came from St. Joseph, with the gentleman himself at their head. There was great excitement among our people in regard to it, and as I saw they were likely to organize themselves into a mob, I, with others—some of the principal men of our county, men of high standing, and who wanted peace—thought the best means of preserving peace would be to open the doors of that church, and invite all the States-rights men therein, and make speeches to them, so as to prevent them from mingling and fighting with the crowd from St. Joseph. These men were called off to insure the gent's own protection, and nothing else.

MR. STEWART. I will ask the gentleman if he did not say that the best way to dispose of the Union cause in that section was to dispose of myself.

MR. HUDGENS. I said no such thing then, nor at any other time. I did every thing I could to protect you. I never said that you ought to be hung, and the man who asserts it declares a falsehood. I did every thing I could to keep

down a riot on the occasion to which you have referred. I called a meeting in the church for the purpose of allowing you to make your speech, and to prevent any one from interfering with you.

Mr. STEWART. I will inform this Convention that I never at any time labored under the slightest apprehension of being attacked by any secessionist in Andrew county, or anywhere else. It is true I went to Savannah in company with some of my friends from St. Joseph—some Whigs and some Democrats. I went there, because I knew the gentleman, after his return from Jefferson city, made inflammatory speeches against me, denouncing and threatening to hang me if I came to his town.

Mr. HUDGENS. I state emphatically that I did not allude to you at all.

Mr. STEWART. Well, then, you made a speech denouncing the Convention in the most bitter terms, and its members as traitors to the Government and State, and as worthy a lunatic asylum.

Mr. HUDGENS. Do I understand the gentleman to say —

Mr. STEWART. I am going on with my speech.

Mr. HUDGENS. Well, I claim the right —

Mr. STEWART. Well, I claim the right to say, most emphatically, that the speech which the gentleman made contained the gall and bitterness of secession itself.

Mr. HUDGENS. Was the speech published?

Mr. STEWART. He wanted to run out all the "Yankees," as he termed them.

Mr. HUDGENS. I raise a point of order. I wish to know if the gentleman has the right to misrepresent me in this manner.

Mr. STEWART. I am personally responsible for my statements.

The PRESIDENT. The Chair has no means of knowing whether the gentleman's representations are correct or incorrect, but he will require the gentleman hereafter to confine himself more to the question.

Mr. STEWART. Very well, sir. But I wish the gentlemen of this Convention to understand the position which the gentleman from Andrew occupies. I wish them to understand that he has from the first been in sympathy with Jackson. And speaking of Jackson, reminds me of a little incident in connection with this abdicated traitor. I remember last spring I went up to Jefferson city, and stopped at a house opposite the Governor's mansion; and every morning when I got up, the first thing

that met my gaze was a little secession flag, stuck out in a flower-pot which I bought myself, but never designed it for such an infamous purpose as that. The sight of this rattlesnake flag was very annoying, and I felt I should be under the disagreeable necessity of taking it away. Just at that time, however, everybody was scared, as Price and Jackson had ordered all the women and children to leave, and the Knights of the Golden Circle had established a perfect reign of terror. I gave notice, however, that I should speak in the courthouse on a certain night; and I did speak, although they threatened to bring the guns of the Penitentiary to bear upon me if I made the attempt. I took occasion, during my speech, to allude to this secession flag in no very complimentary terms, and the next morning I saw the flag had disappeared. After that I went to St. Joseph, and there I learned Jeff. Thompson, at the head of a mob, had stolen the guns from the Liberty Arsenal; and I believe the honorable gentleman from Andrew sympathized with, if he did not take part in, that movement. At any rate, this armed band of secessionists, numbering some four or five thousand, went to St. Joseph just before I got there, and stuck their secession rag upon the market-house; and I think the gentleman from Andrew made a speech on that occasion. The Knights of the Golden Circle—that damnable band of traitors, hatched in iniquity and nurtured by midnight conspiracy—tore down the stars and stripes, and put up their secession rag; and on a subsequent occasion I denounced the outrage as it deserved. They told me I would be afraid to go to Andrew county and make use of the same remarks that I had delivered at St. Jo., as Mr. Hudgens would appear against me. I immediately gave notice that in six days from that time I would go to the courthouse at Savannah and make the same speech, in the gentleman's own town. I did go, and delivered my speech, and felt no apprehension as to my personal safety; because I had been arrested on several previous occasions, and these men with the lurking devil of secession in their hearts had shown that they were afraid to kill me. I told the crowd of secessionists once that they were nothing but a mob, and that while they thought they were performing a great feat in arresting me, yet they dared not kill me; "because," I said, "you know the moment that you shed my blood, it will be like shedding the blood of a heifer on the meadow, as a whole herd of cat-

tle on a thousand hills will come to my rescue." Well, I made my speech, and went home; but, soon after, these cowardly scoundrels undertook to destroy my press and burn the post-office, and all their movements have been characterized by acts of vandalism sufficient to disgrace savages. Yet they have always had the sympathy of the gentleman from Andrew. I am not surprised that the gentleman should denounce the action of this Convention so bitterly. He has always been opposed to its action, because he is rebellious at heart and in sympathy with the rebels; and I believe he is an exchanged prisoner at this present moment. [A voice—"that's a fact."] But, of course, that is a matter of which I do not care to speak.

Mr. Stewart here gave way to Mr. McFERRAN, who presented a report from the Committee on Civil Officers, in the shape of "An Ordinance to abolish certain officers and reduce the salaries of others."

Mr. BROADHEAD. As a member of this committee, I do not fully agree with the report, but shall content myself with offering amendments when it comes up, instead of offering a minority report.

The Report was laid on the table, 200 copies ordered to be printed, and made the special order for to-morrow.

The Convention then adjourned to 3 o'clock.

AFTERNOON SESSION.

Mr. STEWART, being entitled to the floor, resumed his remarks, and spoke at considerable length in denunciation of the Southern Confederacy, and concluded by expressing the hope that the rebels would speedily be cleared from the State. He was not in favor of showing any great leniency to them; he thought the best plan was to fight the devil with fire; or, in other words, that the counterpart part of guerrilla warfare was guerrilla itself; and the next thing was extermination—wiping out the rebels, root and branch, from the State, of which he was greatly in favor.

Mr. HUDGENS. Mr. President, I desire to explain a personal matter. No member in this house regrets more than I do the necessity which compels me, upon the present occasion, in occupying the time of this body, to defend myself from a personal attack. There has never been a period in my life, Mr. President, when I could so far forget my manhood, and the position I occupy, as to avail myself of an

opportunity to inflict a wound or offer an insult to any one under such circumstances. If I have an injury against a man, and cannot get satisfaction in the ordinary way, I will not attempt to seek it under circumstances like the present. I desire, inasmuch as I think the occasion demands it, to leave myself upon the record in a proper light to be read by others, and it is upon that principle that I ask the indulgence of the house until I am allowed to defend myself from the attack made upon my honor in the speech of the gentleman from Buchanan (Mr. Stewart). In the first place, he tells you that I was elected in my district as a Union man, and then misrepresented my constituency, and even refused to take the oath to support the constitution. It will be borne in mind that I did not, as a member of this Convention, object to the oath. That question was debated, and I inquired if the oath, when taken, would have a certain effect. I had no idea of making any objections to taking the oath. The journals will show this: that the subject was debated by Union men, and I propounded a question to the Chairman of the Convention, Judge Gamble, as to what would be the effect of taking the oath, and that was all. I doubted the propriety of the oath, yet had no objection to taking it.

Now, the gentleman has alluded to a proclamation, as he is pleased to call it, alleging that I showed it to him while on the way to this Convention in March last, and he avers that I have departed from the policy therein laid down. Now, I wish, Mr. President, to present that proclamation to this body, (or, rather, circular I suppose he means,) in order to show that the gentleman's statement is without foundation. I desire that that circular letter be read and compared with my published speeches.

The Clerk then read the following, at the request of Mr. Hudgens:

JUDGE HUDGENS' LETTER.

"To the Editor of the Northwest Democrat.

"Sir:—I hope you will permit me to correct, through the columns of your paper, a few incorrect reports in regard to my position on the question which now agitates the public mind. As to the delegates to the Convention, I suggest that we select tried and true men—men who love the Constitution and the Union as it was given us by our fathers. I profess to be a Union man, but do not belong to the so-called Union party lately formed in this part of Missouri, out of the broken down, dis-

appointed and spavined politicians of the different political parties, with the Abolitionists and enemies to the institutions and interests of Missouri, who would sell their dearest interests for power. They cry 'Union,' to deceive the unsuspecting, in order to build up a new party, for the purpose of abolishing slavery in this State, and gaining place and power. This is no time for such men; the hour is too perilous. We want men whose antecedents show that they have been for the Union, and love it for what it cost, for what it has done, and for what it would do for us, if preserved and carried out with the spirit and the manner intended by our fathers; such men as will mourn if it should be destroyed, like a child at the funeral of its mother, and, long after it is destroyed, hope that it will still live again, having done all that they could to preserve its life.

"As important duties will devolve upon the members of the Convention, they should be lovers of the Constitution and the Union; they should be conservative, compromise men. Missouri should stand with the border States—Kentucky, Tennessee, Virginia, and Maryland—demanding of the North justice to the South, and a permanent settlement, now and forever, of the slavery question, that we may have no more agitation between the North and the South, but each respect the rights of the other. This cannot be done in haste—it will take time. The Convention will not adjourn the first day, as we have heard.

"Missouri should be heard by both the North and the South, demanding what is right, and submitting to nothing wrong. She need not advocate secession or disunion, but should stand between the North and the South, and plead for compromise and peace. She must stand with the slave States in demanding of the North justice to the South. And after all hope of reconciliation and peace has fled, and the remaining sister slave States have formed a separate republic—the Union then, of course, having been dissolved—Missouri, being clear of the sin, will then have to take her position either with a Northern or Southern republic, or stand alone. At this dreadful crisis, I have no hesitation in declaring that I want Missouri to unite her destiny with the South, if proper terms can be made. I say we will have to take a position; and taking a position after the dissolution of the Union would not involve us in secession or disunion, for the reason that there would be no Union to dissolve or secede from.

"I am neither a secessionist nor submission-

ist, nor am I for coercion or for war. I want every thing that shall be done, to be done in a spirit of compromise, and with a view to a permanent peace in any event.

P. L. HUDGENS."

Mr. STEWART. What is the date of that?

Mr. HUDGENS. It was written in February, and is the one I showed you.

Mr. STEWART. It is not the paper you showed me.

Mr. HUDGENS. It is the only one I ever wrote.

I have had this circular read, Mr. President, for the purpose of showing that I have not departed from the principles therein laid down, and also to show the treachery of the man's memory. Now, I have to say to-day—and I am not ashamed nor afraid to do it—that I have no desire to conceal anything from this body, or from any gentleman. Those were my sentiments when I uttered them, and they are now my sentiments, and I for one am willing to avow them. The gentleman mistakes me, and does me injustice, when he insinuates that I am capable of representing my people unfairly. I do not make this reply to his remarks for the purpose of putting myself right at home. Every man who knows me at home, knows that I am no negative man. They know that if I take a position, I will stand by it until convinced of its error; and the ground that is good enough for me to stand upon, is good enough for me to fall upon. I am a Southerner by birth, education, and principle. Now, in regard to my speech at St. Joseph, the gentleman says he read it, and yet it was never published. He has detailed extract after extract, and yet it was never reported. I wish it had been.

Mr. STEWART. I say it *was* published.

Mr. HUDGENS. I assert, that, so far as my knowledge goes, it never was published, and I appeal to his colleague, Mr. Hall, if that speech ever did appear in print. There was a letter published which alluded to the speech and pretended to give some of the passages. Some man wrote an account of the meeting, and stated that such and such things were done. I do not remember all that was said on that occasion, but know that the speech was not personal; that the only time the gentleman's name was mentioned by me, was when I was called upon to read the votes of certain parties in this Convention. I regretted to do it, but was called upon and could not refuse. My speech on that occasion embodied nothing

more than the sentiments which are contained in my speeches published in the Journal. I did not advocate the whole policy which this Convention saw fit to adopt. I suppose that I had the right of a freeman, and that when I was addressing my constituents I had the right to report to them what we had done in this Convention, and how we had done it. I supposed I had the right to do this, and I had no idea that there would be any criticism, or denial of such right in this body upon it. I will say this: I do not charge the gentleman from Buchanan with having wilfully misrepresented my position on that occasion. He was not present, and the only knowledge he has of what my position was, was obtained from some individuals, or the letter which misrepresented the facts. The statements he has made are entirely untrue in every sense and form, and the speech he alluded to never did embody the sentiments he attributed to it. He charges that the next thing I advised was that he and others should be hung at Savannah. I desire to state here exactly what I did say; and I am responsible for what I say, for I never get in a condition that I do not know what I do.

In reference to that meeting at my town in Savannah, when the gentleman announced his intention of going there and making a speech, I expressed myself in favor of his coming. I said, "let the people know it, and publish it; and when he comes, let the people honor him with a hearing." I was not afraid of debate. I knew he and I differed on some important points; but I wanted him to have a respectable hearing. Unfortunately for him, however, it came out three days before the time which had been announced for his coming, that he would bring with him three hundred Germans from St. Joseph to pass his Union resolutions in Andrew county. Our people objected to this: they were unwilling to be insulted, as they considered that they would be by the Governor's bringing in others to sustain his views; and in consequence of this act a large body of excited men collected together to resent it. I did all I could to calm the excited passions of these men; and yet I am blamed for what I did. From the first, I had been determined to keep the peace in my county. I was unwilling that a drop of blood should be shed in my district, if I could help it; but when the Governor came there at the head of three hundred Germans, with martial music and banners flying—having paid their passage on the railroad, as was reported—I thought

blood would be shed. I went immediately, along with old citizens of the place, and took the men, in the crowd, one by one, and told them that we must not interfere with the speeches of the Governor and his friends—let the resolutions be passed, and the meeting quietly adjourn.

The Governor says I went to a church and made a speech; that was true. The plan was to organize and hold a meeting of States-rights men in the church, and to keep them in doors by making speeches to them, while the Governor was passing his resolutions, and thereby prevent the two crowds from mingling together and shedding blood. The man to whom he refers was authorized to take a position where he could be seen, and proclaim that every man on the States-rights side was desired to go to the church for a few moments; and while they were thus being quietly drawn away, I have no doubt but that the Governor thought this was for the purpose of preventing him from making his speech to them. This was a mistake. We had collected these men, and I made a speech to them for the purpose of dispersing the crowd and to prevent the shedding of blood; but, before we got through, the cry was raised in the church that a German had shot a young man, and in spite of all I could do the crowd rushed into the street. As the crowd advanced to the scene of action they met a young man who had been shot, and it was said his wound was mortal. As one crowd advanced the other retreated most rapidly, and I leave the gentleman to say how they all got away, and what sort of time they made on their retreat—whether in good order, or not. To describe the scene would be dealing in personalities, and I pass it. The greatest excitement prevailed, and it was said that the men who brought the Germans to Savannah were responsible for the murder, and Colonel Bruce was at once surrounded, but with my aid and others he was saved out of great danger, and for my kindness he has done me much harm. Having secured his safety, I then did every thing I could to prevent any further injury; and this was all that was done. I am sorry this thing was brought before the Convention; but that is the beginning and the end of it.

I stated no such thing as that the gentleman ought to be hung on that occasion, neither did I advise violence; but, on the contrary, I advised the reverse, and did all I could to prevent any disturbance. And, as I before remarked, whatever I did, I am not ashamed of.

But still the gentleman prefers another charge against me, and it is the unkindest cut of all. It is strange that he could look at my emaciated form to-day, and knowing the cause that it is the result of the inhumanity of his Union friends and constituents, with their bayonets, yet allude to the fact that I am or have been a prisoner of war. In these days, there is no telling how hardened men's hearts become—how far old acquaintances can forget old associations, and how hard they can strike at old friendships. Now, if it will be any satisfaction to the gentleman, I desire to admit this: At Jefferson city, I feared the new Governor would multiply the difficulties in the State, and I determined to say what I thought the result would be. I hoped it would be one of peace, as my published speeches show. I then believed and said that it would make a battle-field in every prairie in the State. You remember what excitement our action at Jefferson city created. After the Convention adjourned, I made a few remarks to the people of my county in order to quiet their minds, and to help in maintaining peace. Some time after, some of Col. Peabody's command came to my premises at a late hour of the night and knocked at the door. My son opened the door, and two bayonets were thrust at him; one struck or glanced his breast, and one entered the casing of the door. The men supposed it was me, and they came there for the purpose of my destruction. My wife screamed, and the family were terror-stricken; and the men finally departed, supposing they had done the deed.

I went down the next morning to Col. Peabody's camp and told him what had occurred. He went with me and saw where the bayonet entered the door, and seemed much mortified, stating that the matter should be investigated and the men punished; charging that it was done without his knowledge. I said to him that I had heard a rumor that he intended to arrest me for something, I knew not what; he replied that it was not true, that he had no thought of doing it. I then said to him if he should desire to arrest me for any supposed offence, that I would give myself up immediately if he would notify me and not arrest me before my family; he said he would do so, but had no idea that I would be interrupted. I told him I only feared such men as those that attempted to kill me, as above stated. When on my way to the Convention, last July, I was informed that I would be ar-

rested in St. Louis. While I was stopping a few days, I requested a member of the Convention—a Union man, now present, to let the military authorities know that I was in the city, as he was going to the Arsenal; I presumed some villain had made a false affidavit against me, and if I had to be arrested, I wanted to be in the hands of United States officers, and I would deliver myself up immediately at any place they might direct. I knew my enemies would spare no pains to have me arrested and mistreated if falsehoods would enable them to do so.

About five weeks ago, I stepped out of my door about two o'clock at night, and soon heard the report of a gun at a distance of not more than ten or fifteen feet from me, and it is a providential circumstance I was not killed on the spot. Immediately after the gun was discharged, I found myself surrounded by at last one hundred men, who arrested me. I desired to get my clothing and hat before being taken away, as I was in bad health; but I was instantly hurried from my house, without my family knowing what had become of me, placed upon a horse and run off a distance of twelve or fifteen miles into Gentry county.

When they had carried me about seven miles, they made a short stop. Here I was informed that a company had been sent back for some purpose to my house. I was at this time in great distress. I lost all concern about my own safety, and neither thought nor cared for anything but my family. I knew my family would be robbed, and, perhaps, abused, by a band of cut-throats and villains. No one but a husband and father can appreciate my feelings at that moment. It was not long, however, before the robbers returned, boasting of their captured prizes. When I arrived at headquarters, a general shout rent the air, and long and loud yells went up from every quarter of the encampment. I was ordered to dismount at Col. Manlove Crayner's headquarters, who admitted that he had ordered my arrest for making a speech in a rebel camp, (as he said he had heard;) pretended he was sorry that he had ordered the arrest until better advised in the premises. But when I remembered that he was a bitter enemy, and had nursed his wrath for several years, I knew it was revenge, and nothing else. He was not an officer, but had, as he said, 2,000 men, and, as I understood, not one of them in the service of the Federal or State authority. They were generally constituents of the gentleman

from Buchanan, and, like him, were trying to find out whether we had a Government or not. Sometime after I arrived at camp, I learned that one of my sons was outside of the lines with some clothing for me, and wanted to come in. Col. Crayner sent for him; he had not been in the tent but a few moments until the crowd which had been standing around me, abusing and threatening, commenced increasing rapidly, and appeared to be very much excited. I learned from them and the Colonel in command that they were discussing the propriety of assassinating both of us. David Crayner, a brother of the Colonel—whose kindness and patriotic spirit I can never cease to remember—made a bold speech in the midst of the mob, denouncing every man as a coward and villain who would attempt to assassinate either of us. Judge Edwards, of Iowa, also addressed the crowd, telling them that if they assassinated either of us, Iowa would withdraw her troops from the State; that they would not help assassinate men; that the old man, as he said, no doubt was a great rebel, but he was an unarmed prisoner; that my son was admitted in camp, and no charges made against him; he came as a son should do, to see his father, and carry the news to his distracted mother.

Judge Edwards concluded by saying that the people of his State would help sustain the Constitution and laws, but would not aid or countenance assassination. A third speech was made by a citizen of Iowa, and the crowd dispersed. Had it not been for these speeches, nothing but the terrible right arm of Providence could have saved us from a cruel death. We were saved as Daniel was in the lions' den. It is worthy of remark that all this time an old white-headed man was cursing me, and saying it would be down upon his dying pillow to shoot a ball through my heart. It is also proper to state that Judge Edwards' regiment had not arrived, the Judge making his appearance a few moments before making his speech. I will not attempt to describe my feelings during this time—language would fail me. Sad, indeed, were those moments. "My son! Oh my son! Would to God I could die and save him." His affection for me had involved him in the difficulty. I saw no chance for his life. My thoughts traveled fast from his present condition to the fatal hour when Union bayonets (as they were called), but a few weeks before, were brought around his affectionate and lovely wife, in the

morning of her life, and, owing to her delicate health, was thrown into convulsions and hurried to an untimely grave, with her infant babe; and now the husband, by the same agency, to be assassinated! But let a veil for the present be thrown over these wretched moments and inhuman transactions. Better counsel prevailed, and it was determined to release my son, and dispose of me at a more convenient time. He was taken some four miles from camp by two of his Kansas friends to protect him—(Kansas was his home.) I never felt more pleased at any event than when I saw him delivered safely from the mob. I was taken, in a few days, from this county to St. Joseph. For the sake of brevity, I pass over many circumstances that might be of interest to the gentleman from Buchanan. Suffice it to say, soon after our encampment at St. Joseph, the destroying angels of darkness of that city, with many kindred spirits from Savannah, appeared around my tent, and an organization was formed, consisting of three hundred and ten men. Having entered into a covenant to murder me, they then concluded to cast lots to see who should have the honor of doing the deed. This I was told by Col. Crayner and others in command; that some approved of the measure, whilst others were opposed to it; some in favor of it outside the organized body of three hundred and ten, and that he would prevent it if he could, but feared he might be killed himself if he said much, as he was without legal authority to act, neither himself nor men having been sworn into service. I desire to say, in justice to many persons in the command, that I believe they were opposed to my assassination, and did all they could to prevent it, when it seemed evident that the deed was about being done. At a late hour of the night, that portion of the command that was for saving my life, gathered around my tent, and placed me in the centre of some two hundred men, and marched with me to the Buchanan county jail, a distance of about two miles. This I approved of, believing that as the jail was considered very strong, a mob could not enter it. I was not put in the main prison; I was taken into what is called the reception room, or outer court. I found quite a number of respectable citizens confined for no offence except that their sympathies were with the South. The jail had no terrors for me.

I only regretted that I was not in the main prison, for I was then in the power of the as-

sassins, as there were but few men guarding the door. I remained here several days expecting every moment to be taken out by the mob. It was well understood that I was left or kept in that position so that I could be taken without breaking the jail. I became satisfied my life was endangered, and the only question was how I could be disposed of without involving the officers who claimed to be in command. I was very sick and was denied medical aid; part of the time had nothing to eat; my friends excluded from me, not allowed to see me or send me any thing to eat; but this was not the fault of the jailor, as he did every thing in his power, or that he was allowed to do for me. During my sojourn in this jail, I was marched to the depot and back four different times, for no better reason than to give the mob or an assassin a good opportunity to take my life, as I then and now firmly believe, a small squad of men guarded me, but could not have protected me from violence if it had been attempted.

I was finally put on the car. My wife, who had been endeavoring to see me for several days here, made her appearance, accompanied by a friend. I was only permitted to speak to her in the presence of officers, and but a few moments at that. This was another hard trial that can not be described. She was informed that I was to be taken to Quincy, Illinois. We were then, instead of Quincy, escorted by a small guard to Atchison, twenty miles down the river. After our arrival opposite Atchison, on the Missouri side of the river, our car was detached from the main train and kept on the bank of the river. As it was well understood Dr. Jennison's jayhawkers were at or near this place, it was expected or intended that this car load of rebels, as we were called, should fall to the tender mercies of these men. While we remained here expecting every moment the arrival of these "Home Guards," it seems there was some uneasiness manifested at St. Joseph in regard to the result of such a course. Contrary to our expectations, and before we were disturbed, an engine was sent from St. Joseph to bring us back. This wicked and malignant transaction was covered by saying it was a mistake. I now saw but little hope for my life. I was aware of the anxiety of my family, and the extreme sorrow and grief of my wife, and I determined to have my condition at once changed. I sent for Col. Crayner and immediately demanded a trial, as I had done

from the first, before my most bitter foes, if preferred by them. This was declined upon the ground that he had no authority, having not as yet been sworn into service. I then informed him that I demanded a change of his present course at once—that is, if it was his intention that my life should be taken, to have me shot at once, as death was preferable to such a life, and deliver my remains to my family and end our anxieties and struggles at the same time. This he would not consent to do. I then made another request that he would send me to St. Louis, where I would be placed in the hands of the Federal officers, and could be aided by friends, as I was certain such aid would be allowed by Federal officers or soldiers. I was of course in great distress and anxiety concerning the safety of my family, as they had been driven from home and all that was dear, and now a band of outlaws were quartered on my premises, in one of my buildings, having already destroyed my crop, and were now engaged in destroying my property generally—even searching for my bed clothing, which had been concealed, laying in waste every thing that could not be taken away. My property was, doubtless, a great temptation for men who were too respectable to steal, too proud to beg, and too lazy to work. It was not for committing treason that I had been torn from the bosom of my family; in addition to malice against me, they wanted to rob my family, and throw them upon friends to be protected and supplied with food, as they have been. This vile gang arrested me, and live and destroy my subsistence. I am ashamed to acknowledge that they are generally citizens of my own county, committing these outrages. But to return to my own case. I was started with eight other prisoners on the train to Hannibal and St. Louis; I was hurried off without any thing to eat, having tasted nothing from the night before we started until ten o'clock the next night. We were taken to Quincy, Illinois; arrived there at a late hour, with some thirty armed men, as a body guard. We were marched through the streets, some two or three miles to an encampment near the city, where we were kindly treated by both officers and men; (this was something new to us.) I presumed we were brought here for the purpose of sending us to Cairo, where I had no acquaintances or friends, but the Illinoisians ordered us to St. Louis. We left next morning. As we passed through Quincy, a crowd followed us, saying, shoot

them, hang them, &c., &c. When we arrived at St. Louis, I came very near losing my life by an officer in charge of me, for saying to a stranger on the boat if he saw Col. Howard, a friend of mine, in St. Louis, to tell him I was a prisoner on my way to the Arsenal, very sick, and wanted assistance. I was taken to the Arsenal and there I was treated with every kindness that could be afforded me. Some fifteen days after my arrest, my son went to Gen. Price's camp and got me exchanged for Col. Marshall—not because I was a prisoner of war, or had been arrested for treason, as the gentleman asserts, but because I had been wrongfully arrested. Gen. Fremont had the kindness to say, at the time of my release, that they had determined to release me, as there was no charge against me. From that time until now, I have been cared for by those who were strangers then, but acquaintances now. I am still in feeble health, and hardly yet able to be here. I thought it my duty, however, to come here, and I did not feel that I was disgraced or a prisoner of war. I did not feel when lying in the cold jail, in the darkness of the night, expecting that my execution would take place at any moment, that I was in any manner disgraced. I was not the only one who was persecuted, for I remember that while I was at St. Jo., ladies came weeping to their husbands, the most respectable citizens of Buchanan county, and told them that these guards of the State had taken the last particle of provision, the last ear of corn, the last horse, and last negro—that every thing had been swept away, and that they were still prowling over the country, taking every thing as they went, even bed clothing, provisions and all; yes, there were some of the best citizens of Missouri in that

jail, while their families were being robbed, and crying; ladies were asking their husbands what they should do. I notify the gentleman that these were his own constituents. My family came to me with the information that after I had been taken away, the wretches, not satisfied, had gone back and driven them away from their own homes; and, not content with that, they had taken, or been in search of, the bedding and clothing, and broken the furniture, so that now my family is dependent upon friends, and this mob has possession of my premises and has consumed every particle of my hard earnings for the last year. I am not allowed to go home, and my life is threatened if I make my appearance there. Is this the mercy that the new Governor is meting out? Are we to be subjugated thus and not allowed to complain. (Applause in the lobby.)

Mr. GANTT. I move the arrest of those making a disorder.

The VICE-PRESIDENT. The Sergeant-at-Arms is directed to clear the lobby of those who caused this interruption.

Mr. HUDGENS. I desire to return my thanks to this body. I did not expect to be able to meet with them. I am frail and have done myself injustice; but I have no personal revenge. I do not think I shall be here again to participate in the proceedings unless something should arise to make it necessary in the course of the discussion. I am satisfied a majority of this Convention differ with me in opinion, but I believe the people are against them, and it is not my duty to set up a factious opposition to the will of the majority here. I am sorry these matters have been brought up, and that this explanation has been demanded.

Mr. GANTT moved to adjourn.

FIFTH DAY.

TUESDAY, October 15, 1861.

Convention met at 10 A. M.

After the reading of the journal, Mr. BIRCH rose to a privileged question. He said: As the only reparation it is in my power to make for the unintentional injustice into which, it seems, I was led respecting our late Door-keeper, I ask that a note which I have received from him this morning, be read by our Secretary and entered upon our journal.

The Secretary then read the following note:

"CALIFORNIA, Mo., Oct. 11, 1861.

"Hon. JAMES H. BIRCH—*Dear Sir*: In the Republican of the 12th inst., you are reported as having asserted that '*it was notorious that I was now serving in the State army*,' meaning, I suppose, the army of Gen. Price of this State. Now, sir, I cannot believe that you would *intentionally* misrepresent me, but I cannot let the assertion pass unnoticed, as there is not a shadow of foundation for the assertion. I never have been connected, *in any form, shape or manner*, with any army, and have no idea of ever having any connection with any army. I have *all the time* remained a *peaceable and quiet* citizen, and expect to remain so. Please to do me the *favor and justice* to correct your statement in regard to me, and oblige,

Yours, respectfully,

C. P. ANDERSON, *Doorkeeper Conv.*"

Mr. PIPKIN called attention to the subject of mileage of members. The act organizing the Convention authorized the payment of mileage to members from their homes to Jefferson City; and as the Convention was sitting in St. Louis, he thought some action was necessary.

The PRESIDENT suggested that the Committee on Accounts ought to be instructed to report in regard to the subject.

Mr. WELCH offered a resolution to the effect that the Committee on Accounts be instructed to report in favor of allowing members mileage from their homes to the city of St. Louis. Adopted.

Mr. WELCH moved that the Convention pass over the regular order, and take up the ordinance in reference to deferring the election.

Mr. McCORMACK offered the following:

Resolved, That the Governor be authorized to issue State revenue notes to the amount of two million dollars, which said notes shall be accepted at par by all State officers, and in all transactions with the State. They shall be of the denomination of \$100, \$50, \$25, and \$10, and shall not bear interest, but shall be received at any time the same as gold, for all revenues of the State; and those notes which do not thus come back to the State in payment of taxes, or for other revenue, shall, after three years from the date of their issue, be redeemed in gold on demand, on presentation of the same to the State Treasurer, or such agents as the Governor may appoint for this purpose. And every such revenue note coming back to the Government of the State in the shape of revenue shall be cancelled in some manner, and not be issued a second time. Referred.

Mr. WELCH's motion to take up the ordinance postponing the election was then agreed to.

Mr. HALL of Buchanan. I think this is a subject upon which we have reflected sufficiently; and as I think it is time for the Convention to agree upon something, I move the previous question.

At the request of Mr. Welch, however, the motion was withdrawn.

Mr. WELCH. The question before the Convention involves the propriety of postponing the election, which was directed by us at our last session, for Governor and other offices, in lieu of the provisional officers elected by this body, and I propose, Mr. President, briefly to submit the reasons which will actuate me in the vote which I shall give. The journals of this Convention at its last session will show that I voted for this election to come off in November of the present year, and a sense of duty compels me to state why I shall now vote to undo that action and to postpone that election until the period suggested by the committee in the ordinance submitted by them for our action. I trust, sir, that the reasons which shall govern me in postponing the election, are as valid and satisfactory as

those which induced me to vote, designating the first Monday in November for that election.

Now, Mr. President, what are the circumstances by which we are at present surrounded, and which are by many of us deemed sufficient to justify the modification of our former action, which is now proposed by the committee?

During the regular session of the Legislature, which met in December last, in view of the lamentable condition of public affairs throughout the country, a bill was passed calling a State Convention. That body was to be the peculiar guardian of our Federal relations, and to decide what position Missouri should assume in the fearful crisis, then and now upon us. This body was elected by an overwhelming majority of the people of the State, to pronounce the *status* which this State should occupy. In obedience to that law of the Legislature they met in Convention, and, after a full and candid deliberation and debate, they pronounced, that, in the opinion of the people of the State, no cause existed for interfering with the then existing relations which subsisted between Missouri and the Federal Government. With this declaration, they adjourned. Shortly after our adjournment, the Legislature was convened in extraordinary session. The measures of that body were well calculated, if not purposely intended, to destroy the *status* of Missouri, as just declared by the people of the State in Convention. Gov. Jackson, although in his proclamation of May recognized the action and power of this body, yet by his conduct he did every thing to thwart the will of the people, almost unanimously declared in the Convention. I shall not now stop to recount the various steps in this sad drama. So injurious had this legislation of the extra-legislature proved itself upon the peace and welfare of the State, that this body was called together to take such action as it deemed best to vindicate the sovereignty of the State and to protect its institutions from the dangers which so imminently threatened them. They were called upon, if possible, to assuage the storm which had been, so unjustifiably raised by the Governor and Legislature; and, in the discharge of that duty, this Convention deposed the Governor, Legislature, and other officers, and filled the vacancies thus created, except the Legislature, by provisional appointees. They also repealed those acts of the Legislature which were calculated or in-

tended to bring Missouri into a fearful conflict with the authorities of the Federal Government. Thus it was that the people witnessed two antagonistic legislative bodies. The Convention, on the one hand, trying to preserve the peace of the State, by preserving her relations with the Federal Government; the Legislature, on the other hand, trying to involve Missouri in the fearful civil war then raging in the land, by its efforts to sever the relations which we held to the General Government. This was the aspect of public affairs at that time. The voice of the people was presumed to be expressed by the Convention, for that body was called into existence on these very questions. The Convention, however, in this unfortunate conflict of legal authority, determined to appeal to the only tribunal recognized in this land to decide these momentous issues for themselves. They accordingly with great unanimity adopted an ordinance providing for the submission of their action to a vote of the people, to be held on the first Monday in November. By the terms of that ordinance the people had the right to pass upon our action and approve or condemn it. This was fair and right, besides being in harmony with the genius of our republican government. Here was an opportunity given to decide these issues *peacefully*; for if the people should disapprove the action of the Convention, then Governor Jackson became restored to his office and every thing would have been settled, without that utter ruin of all our material interests now visible on every hand, and without those awful scenes of horror which invariably attend a civil war. Upon the verdict of the people this Convention would have stood, and its voice they would have doubtless obeyed. Surely no objection could have been urged to such a settlement of our disputes and difficulties. But such a settlement, to be satisfactory, must be submitted to by all. We have, however, conclusive proof, that Gov. Jackson and those who are engaged with him in precipitating Missouri headlong out of the Union, were determined that these important questions should not be decided by an appeal to the people at the ballot-box, and if satisfactory evidence can be produced of this fact, of course it would be worse than useless; it would even be criminal, to incur the dangers and hazard of innumerable tragedies at the polls, which would be certain to occur, if the decision, when given, was not to be obeyed.

My friend, from Clinton, (Judge Birch,) in

his remarks the other day, alluded to a proclamation issued by Col. J. T. Hughes, a Col. in the army of Gov. Jackson, in which he declares that the election ordered by this Convention shall not be held, and in which threats of assassination are made against the voters of the State who should dare to exercise the right of suffrage on that occasion. Some gentlemen on this floor have alluded to that statement and have argued that Col. Hughes spoke without authority, and that Governor Jackson should not be held bound by the threats thus made, or responsible for the proclamation issued by this blood-thirsty military gentleman. I never was disposed to attach much importance to anything which might emanate from Col. John T. Hughes, neither do I presume that any one, who is at all acquainted with him, would be inclined to do so. In this instance, however, I must think that considerable importance should be attached to this proclamation, threatening vengeance on the people of the State who would dare to vote at the time designated by this Convention for the election. Evidence, however, of the highest degree is not wanting, to show that such is no idle or unmeaning threat, and I, for one, am willing to throw aside the testimony furnished in this proclamation of Col. Hughes, and appeal to the highest authority to prove the fact that Gov. Jackson and his adherents are not willing to settle these difficulties peaceably, but are persistently determined to settle them in another manner. This decision must be made at the sacrifice of all our best interests, to say nothing of the vast number of valuable lives that must be destroyed in the dreadful war to which Gov. Jackson has appealed. If the authority of Col. Hughes is to be questioned, let us for a moment appeal to Gov. Jackson himself, and out of his own mouth will we gather the evidence, that he is unwilling to let the people decide their differences peaceably at the ballot-box; but that he will destroy every interest of the State, rather than submit to any other decision than such as shall result from the issue of war.

On the 5th day of August last, Gov. Jackson published at New Madrid, what he terms a "Declaration of Independence of the State of Missouri," in which occurs this passage :

"The acts of President Lincoln have been indorsed by the Congress and people of the Northern States, and the war thus commenced by him has been made the act of the Government and nation over which he rules. They

have not only adopted this war, but they have gone to the extreme of inciting portions of our people to revolt against the State authorities; by intimidations they have obtained control of the remnant left of a Convention deriving its powers from those authorities, and using it as a tool, they have, through it, set up an insurrectionary government in open rebellion against the State. No alternative is left us; we must draw the sword and defend our sacred rights."

Here we find the emphatic declaration of the "Commander-in-Chief" of the Confederate forces in the State, that this question is to be decided only by the sword. It is said, "no other alternative is left us." This declaration, Mr. President, was made with full knowledge on the part of Gov. Jackson, that this Convention had provided for an election by the people, to decide the fearful issues now pending in this State. Gov. Jackson refers, in the proclamation alluded to, to the proceedings of this body, and professes to obtain the justification of his conduct by the official action of this Convention. He knew that we proposed to submit our whole action to a vote of the people; he knew that we proposed to settle our difficulties peaceably by an appeal to the ballot-box, and yet, possessing this knowledge, he openly declares that he makes no appeal to the people and will not submit to their will in the premises; but, on the contrary, declares that "no other alternative is left us; *we must draw the sword and defend our sacred rights.*" Here is enunciated the hateful doctrine of *coercion*. He refuses to let the people act like freemen in casting their suffrages, but the sword is invoked to decide the issue. Gov. Jackson, who is the Commander-in-Chief of one of the opposing armies in the State, having thus refused to abide the issue of any other tribunal than the sword; having declared his determination not to submit to the verdict of the people at the polls, it follows, that it would be folly and worse than folly—it would be criminal, to hazard the turmoils of an election, when it will not be submitted to. It is very questionable whether an election could be held at the time heretofore designated by the Convention, without there occurring disturbances and murders at very many of the election precincts in the State, and to incur this responsibility, when the election is submitted to, is what in my judgment this Convention should not do. I would have been highly gratified if these questions could have

been decided peaceably at the polls; to that decision I should have submitted, and I think all other good citizens would have been willing to do so. It is in view of these circumstances, that I am induced to vote for the postponement of this election to the time indicated in the ordinance reported by the committee, and now under investigation.

But there is another portion of the extract from Governor Jackson's "Declaration of Independence" concerning which I desire to make a remark or two, and to which I would direct the especial attention of this body. These remarks are intended to show the utter groundlessness of the reasons given by Governor Jackson for issuing his remarkable declaration.

It will, of course, be remembered that this body was convened by the Legislature to consider and pass upon the federal relations of the State, with full authority to authoritatively pronounce the legal *status* of the State. All parties so regarded it, and in corroboration of this remark, I would direct your attention for a moment to the proclamation of Governor Jackson, published by him on the 12th day of June, 1861, in which he calls for fifty thousand volunteers. This proclamation was issued after this Convention had met and declared that there existed no sufficient cause to impel Missouri to dissolve her connection with the Federal Government, and of that resolution Governor Jackson was informed.

In that proclamation Governor Jackson says, that "in issuing this proclamation, I hold it to be my solemn duty to remind you that Missouri is still one of the United States; that the Executive department does not arrogate to itself THE POWER TO DISTURB THAT RELATION; THAT THAT POWER HAS BEEN WISELY VESTED IN A CONVENTION, which will, AT THE PROPER TIME, express your sovereign will; and that meanwhile (that is, until the Convention shall declare your sovereign will) it is your duty to obey all the constitutional requirements of the Federal Government."

Here it will be seen, Mr. President, that Governor Jackson expressly repudiates the idea that he has any authority to "disturb the relation" which Missouri holds to the Federal Government, and declares, boldly, that to do so would be to "arrogate to himself" powers which the people had "wisely vested in a Convention;" and yet we find that Governor Jackson, in the short period of less than two months after this, in his memorable "Decla-

ration of Independence," proclaims Missouri to be "a free and independent State." Thus by the fiat of a single will, we find that certain important powers, which the people had "wisely vested in a Convention," have been arbitrarily assumed, and the tie that bound Missouri and her citizens to the Federal Government is rudely sundered, and that by his edict, not only himself, but all other State officials, who had taken a solemn oath "to support the Constitution of the United States," are to be forever released from its further obligation. I charge that to do this is to arrogate to the Executive the power to disturb the relation which subsists between Missouri and the Federal Government, and, to prove that it is an arrogation of power, I refer to the extract from Governor Jackson's proclamation, which I read a few moments since. But I must do Governor Jackson the justice to say that he assumes this power because, first, the General Government, "by intimidations, has obtained control of the remnant left of a Convention deriving its authorities from the people of the State," and, secondly, by virtue of an act of the Legislature, passed on the 10th day of May, 1861, entitled "An act to authorize the Governor of the State of Missouri to suppress rebellion and repel invasion." These are two grounds upon which, in his "Declaration of Independence," he justifies his bold assumption of power to declare Missouri a free and independent State. I shall speak of this second ground of power and justification; first, to-wit, the power which he professes to derive from the provisions of the act of the Legislature to which Governor Jackson alludes.

The following is the *whole* of that act, and it will be seen how little justification can be found here for the power claimed:

"AN ACT TO AUTHORIZE THE GOVERNOR OF THE STATE OF MISSOURI TO SUPPRESS REBELLION AND REPEL INVASION.

"WHEREAS, information has been received that the city of St. Louis has been invaded by the citizens of other States, and a portion of the people of said city are in a state of rebellion against the laws of the State, whereby the lives and property of the good people of the State are endangered; therefore,

"Be it enacted by the General Assembly of the State of Missouri as follows:

"SECTION 1. That the Governor of the State of Missouri is hereby authorized to take such measures as in his judgment he may

deem necessary or proper to repel *such* invasion or put down *such* rebellion.

"This act shall take effect from its passage.

"Approved May 10, 1861."

Now, strange as it may appear, this is the law under which Governor Jackson derives his pretended authority to declare Missouri out of the Union.

That I do not do Governor Jackson injustice in making this charge, I quote the following from the "Declaration of Independence," which he published at New Madrid in August last :

"The General Assembly of Missouri, the recognized political department of her Government, *by an act approved May 10, 1861, entitled 'An act to authorize the Governor of the State of Missouri to suppress rebellion and repel invasion,'* has vested in the Governor, in respect to the rebellion and invasion now carried on in Missouri by the Government and people of the Northern States and their allies, the authority 'to take such measure as in his judgment he may deem necessary or proper to repel such invasion or put down such rebellion.'

"Now, therefore, by virtue of the authority in me vested by said act, I, Claiborne F. Jackson, Governor of the State of Missouri, appealing to the Supreme Judge of the world for the rectitude of my intentions, and firmly believing that I am herein carrying into effect the will of the people of Missouri, do hereby in their name, by their authority, and on their behalf, and subject at all times to their free and unbiased control, make and publish this provisional Declaration, that by the acts and people and Government of the United States of America, the political connection heretofore existing between said States and the people and government of Missouri is, and ought to be, totally dissolved; and that the State of Missouri, as a sovereign, free and independent Republic, has full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do.

"Published and declared at New Madrid, Missouri, the fifth day of August, in the year of our Lord eighteen hundred and sixty-one.

CLAIBORNE F. JACKSON,
Governor of Missouri."

Now, Mr. President, I would observe that if the act alluded to by Governor Jackson in his Declaration of Independence, the whole of which I have quoted, does give to the

Governor the power which he claims, then the act must be *unconstitutional and therefore void*, for the Legislature has no such power. Having no constitutional power themselves to declare Missouri to be "a free and independent State," they surely could not delegate such a power to the Governor and leave it to the discretion of one man to declare the destinies of this great State. I repeat it, that if this act bears the construction which Governor Jackson places upon it, it is unconstitutional and void, and confers no power at all. This Convention was called for the very purpose of passing upon this great question, and called by the Legislature for the very reason that they had *no power* to pass upon them; for so long as Missouri remained in the Union, they could only act in subordination to both the Constitution of the United States and of this State.

But the act does not and can not bear the construction which Gov. Jackson places upon it. The act alluded to is a *local act*. It refers to a rebellion "*in the city of St. Louis,*" and declares that "*a portion*" of the people of *that city* are rebellious, and then authorizes the Governor to "take such measures as in his judgment he may deem necessary or proper to repel *such* invasion and put down *such* rebellion." Now, it would occur to the mind of every candid gentleman, that, under the provisions of an act to suppress rebellion "*in the city of St. Louis,*" the Governor could hardly have power to declare the whole State out of the Union, and yet he has done so. The truth is, that the act of the General Assembly under which Gov. Jackson professes to act, does not convey the slightest allusion to the right or power which he claims, and, by the express terms of the act itself, it is merely a local statute, applicable only to the suppression of a supposed rebellion in the city of St. Louis. It must not be forgotten, however, Mr. President, that this act was passed on the *10th day of May, 1861*, and that although it was in force (as a matter of course) on the *12th day of June, 1861*, the day on which Gov. Jackson issued his call for fifty thousand men, yet that official, in that call, uses the language I have heretofore quoted, to wit: "that Missouri is still one of the United States; that the Executive Department of the State Government does not arrogate to itself *the power to disturb that relation; that the power has been wisely vested in a Convention,*" &c. Now, if the *power* to disturb the relations which subsisted between the people of Missouri and the Federal Government was

wisely vested in a Convention, surely it could not exist at the same time in a mere Legislative Assembly; and if it could, that Legislative Assembly could not delegate that power to the Executive, to be used at his discretion. The fact that this law was in force when Gov. Jackson admitted the power was in the Convention, proves that he himself did not regard the act as conveying the power in question to him; or, if he did regard the act as granting the power, then he becomes guilty of a deliberate falsehood and deception in repudiating the power for himself and acknowledging that it belonged to the Convention. The true solution of this matter I apprehend to be about this, that so long as Gov. Jackson had hopes that he could coerce the Convention into the passage of an ordinance of secession, he was ready and willing to acknowledge that the power was in that body; but when he found that the Convention would not endanger the peace and institutions of the State by a resort to that species of legislation, and he therefore had been thus far defeated in his attempt to force Missouri from the Union, he then sought some other means to accomplish that purpose, and, as a mere afterthought, he resorts to the act of the General Assembly to which I have referred. But I really think that Gov. Jackson was sadly unfortunate in appealing to a local statute, authorizing the suppression of riots and insurrection in a single city in the State, for his authority to sever the relations which had subsisted between the people of Missouri and the Federal Government for more than forty years, and that without any vote of the people to authorize or sustain him. I think I have shown successfully, Mr. President, that Gov. Jackson could derive no authority from the act of the Legislature in question for his "declaration of independence."

His other excuse is that this Convention, at its late session in Jefferson city, was a mere remnant of the original body, and that therefore it was not entitled to exercise the authority which he himself had before admitted to possess. Its authority, therefore, was not to be respected. To any one at all acquainted with deliberative assemblies, this assumption will only be regarded with contempt. The only question is, *was there a quorum present to do business?* If there was a quorum, then all their acts, within the scope of their authority, are valid and binding. Now, what are the facts in this regard? This Convention is composed, when full, of ninety-nine members, or three

members for each member of the State Senate. The official records of the Convention, at its session at Jefferson city of which Gov. Jackson complains, shows that there were *seventy-one* members present. Fifty constitutes a quorum to transact business, that being a majority of all the members elected; so that it will be seen that there was largely over a quorum. An additional fact worthy of serious consideration in connection with this subject is this—that *if every member of the Convention had been present, it could not have altered the final action of the Convention at its session in Jefferson city, from the fact that every measure which received the sanction of the Convention was passed by more than a majority of the whole body.* The presence, then, of all the members not having the effect to change the action of the Convention, it follows that their absence can make no difference, and no valid argument can be drawn from it. But, on this point, a little examination into the proceedings of the Legislature which passed the act "to authorize the Governor of the State of Missouri to suppress rebellion and repel invasion," and under which he professes to derive such supreme powers, is liable to the same objection which he urges against the authority of this body, and will furnish a beautiful illustration of the ancient adage, "that they who live in glass houses should not throw stones." Now, what are the facts in connection with the act under which he assumes to act? You will find by reference to pages 54 and 56 of the House Journal of the late called session of the Legislature, that at half-past eleven o'clock on the night of the 10th day of May, that body was convened in what that Journal designates as an "extraordinary session." This session was a secret one, and it was thus at the dead hour of midnight that the law in question was passed. The House Journal shows who and how many were present on that occasion. The House Journal shows that there were *SIXTY-SEVEN* members present. A full House is composed of *one hundred and thirty members*, and *sixty-six* (or a bare majority) constitutes a quorum for the transaction of business; so that we find that at the time of the passage of the bill through the House, under which Governor Jackson assumes to derive his authority, there was *only one more than a quorum present.* Now, with what grace does Gov. Jackson denominate this Convention, at its late session at Jefferson city, a "mere remnant" of the original body, when we had nearly three-fourths of the whole Convention present, while the House

which passed his law had only 67 present out of 130? Truly, his law is the offspring of a "mere remnant" of the Legislature. A fair comparison of these records will not give Gov. Jackson any credit for his charges against us; and if the action of our Convention was not entitled to respect and obedience by reason of our being a "mere remnant" of the original organization, what respect and obedience is his Declaration of Independence entitled to, issued by virtue of the authority of an act passed by the merest remnant of a Legislature, in secret caucus, at the dead hour of midnight? Surely he gains nothing over us on this point.

I shall dismiss this subject, Mr. President, with the remark that the legal *status* of Missouri was declared by this Convention at its first session, *when every delegate was present in his seat*, and with but one dissenting voice; and that Convention in which Gov. Jackson frankly admits the power to disturb our Federal relations "has been wisely vested," has not, by any official declaration and ratification by the people of Missouri, changed that *status*. This *status* Gov. Jackson promised, in his proclamation for 50,000 troops, he would not arrogate to himself to disturb; but whether he has not grossly violated that pledge, the people of Missouri can determine. I have thus given the reasons which will control me in the vote which I shall give on the proposition now pending, to postpone the proposed election until the first Monday in August next.

Mr. HALL of Buchanan renewed his motion for the previous question.

Mr. PIPKIN. I desire to make some remarks.

Mr. HALL of Buchanan. As the gentleman from Iron has occupied so little of the attention of the Convention, I will withdraw my motion for the previous question, if he will agree to renew it at the close of his remarks.

Mr. PIPKIN. It is well known to this Convention that I took the ground at our last session that any action which this body could take upon the troubles growing out of the difficulties between the General Government and the government of the State, and now between the General Government and the government which is called the Provisional Government and Governor Jackson, that I opposed the action of this Convention; that I stated briefly, that every step we might take would only tend to aggravate our difficulties and complicate the troubles in the State; and the short period

which has elapsed since our adjournment has demonstrated to the whole State that the position I then took was correct. I stated that in my humble opinion, I believed every county in the State would be a field of battle, and that in every precinct blood would be shed. It seems, sir, that this is about to be verified, and that the election which is to come off on the first Monday in November, will not be a peaceable election. I entertained these views because I believed that Governor Jackson was determined to resist the action of this Convention in deposing him. He evidently looked upon the action of the military authorities in Missouri as driving him wrongfully from his seat; and hence this Convention, in deposing him, only arrayed the Provisional Government against that of Governor Jackson. For these reasons, I believed, and still believe, that it would have been better if the Convention had taken no action whatever, but had left the military authorities of the United States to hold possession and control the affairs of the State. I came here, sir, with the expectation of voting, as I shall vote, in favor of postponing this election. I do not think, however, that the time to which it is proposed to postpone it is sufficiently long, or that a fair expression can be had at the end of that time. My opinion is, that so long as the war lasts between the seceded States and the General Government, just so long will Missouri be in a condition which will not warrant a fair expression. These people, who are called marauders, robbers, and thieves, headed by Gen. Price, if they should be driven out of Missouri, what guarantees have we that they will not return whenever the Federal forces are withdrawn. I firmly believe that so long as the war exists between the seceded States and the Federal Government or the Northern States, just so long will Missouri be in a condition to prevent any fair expression of the people from being had.

Now I purpose to say a few things in reference to the propositions which have been introduced by gentlemen on this floor. The only measure which I conceive should be debated or adopted is an ordinance postponing the election, and that then the Convention should adjourn and go home; and that it should adjourn, not to any fixed period, but *sine die*. It should not perpetuate its existence year after year. The people of the State elected it for no such purpose, and I believe everything it has done since its first session has tended to

evil rather than good. Have we, sir, a Constitution? and are we working under that Constitution? If we have a Constitution, then have we a Legislative body? The Constitution provides that the Legislature shall hold its session every two years, and be composed of a Senate and House of Representatives. Now, sir, if this be so, are we that body? And if we are not that body, then can we enact laws for the State of Missouri? I take it, sir, that if we are not the Legislature of Missouri; then we cannot enact laws; and I beg to say in my humble judgment we are not the Legislature of Missouri. The House of Representatives is composed of one hundred and thirty members, and the Senate of thirty-three, I believe, making altogether one hundred and sixty-three members composing the Legislature and yet we are nothing but a body of fifty men, a bare majority of the body which was elected in February last. And we undertake to do what?—to repeal certain laws, and, in lieu of them, to enact certain others; and Gov. Gamble himself tells us in his address, which was read at the opening of the session, that we should adopt such and such laws. If we are not the Legislature of Missouri, then how have we the power to adopt or enact laws? If we are a Legislative body, empowered to enact laws, then the Governor of the State must approve those laws. Yet the Governor of the State of Missouri, who has endorsed the action of this body as a Legislative body, is a member of this Convention. It is true, he has not participated here in our proceedings; but I understand his name is called and made one of the quorum which now acts. Now, is it right, elected as we were for a specific purpose, to take the responsibility of legislating for the people of Missouri, when we have a Legislature for that especial purpose, which is composed of one hundred and sixty-three members. This action of the Convention presents to my mind a state of things which is without its parallel in this country. I understand it to be the duty of a Convention, when fresh from the people, to enact certain organic laws—laws which shall be a basis of action in the shape of a Constitution, and upon that Constitution, and under that Constitution, a Legislature of the State of Missouri is bound to enact the laws, and not a Convention. If we go on here to amend the Constitution, as a body fresh from the people, or if we are (in the language of the eloquent gentleman from Buchanan) the people of the State of Missouri,

to all intents and purposes, we can do anything. We shall then present ourselves in the anomalous condition of not only amending the Constitution of the State of Missouri, but of going to work and making laws under that same Constitution. If this is supporting the Constitution of the State of Missouri, I beg leave to enter my solemn protest against it; because I was sworn, as a member of this Convention to support the Constitution of the State of Missouri, and I cannot, by my own consent, swear to violate and trample that Constitution under foot; and I hold that whenever we shall undertake to make laws under the Constitution, when that Constitution requires they shall be made by a Legislature, every step we take in that direction is a violation of the Constitution.

I said I would support an ordinance postponing the election. If we had the power to pass an ordinance—in regard to which I differ from a greater portion of this body—we certainly have the power to postpone the election of officers appointed under that ordinance. Though I do not believe the ordinance was right in the first place, yet, as we have been acting under it since the last adjournment, and now that a proposition comes up to postpone the election, I shall vote in favor of postponing. I shall do this for the reason that there is no peace in Missouri, and in one half of the counties of the State there can be no election. So far as my own county is concerned, there are no officers there to make out the poll-books, and no people to attend the polls, because they are frightened away; many of them are in the Southern army. Those who are there are afraid of the Northern troops, and could not be induced to go to the polls, and, as a matter of course, the election would be a failure. But I cannot vote for the proposition which is embodied in the minority report of the Committee—that is, that the provision submitting this election to the people shall be abrogated; and the reason is this: It is true, that the section which defines the duties of this body, and another section which provides for the submission of the ordinance that might be passed to the people, does not govern the case, for the reason that those who enacted this law did not anticipate such a result, or that it would be necessary to provide for a provisional government. The fifth section of the act which brought us into existence, provides that this Convention shall proceed “to consider the then existing relations between the Government of

the United States, the people and governments of the different States, and the government and people of the State of Missouri, and to adopt such measures for vindicating the sovereignty of the State and the protection of its institutions as shall appear to them to be demanded." The majority of this body contend that under the call of this Convention we have the power to depose officers, create offices, abolish the Legislature, and do anything that the people themselves might do if they were here in person. Though that proposition, abstractly, may be correct, yet I hold, sir, that it is not the duty of this body to interfere with any propositions or matters which were not submitted to the people when we called upon them for their suffrages. We might perpetuate our own existence from year to year; but did the people contemplate, when they elected us, that we should be clothed with any such power as that? I hold, that we should confine ourselves exclusively to those things which we were required to do when elected and organized as a body. Under the latter clause of the fifth section of the act calling us together, I hold, we have no power to depose the State Government. I hold that no such propositions were submitted to the people of my section of country. We were elected with no such object, and though we might have the power, we have no right to exercise it, because we do not know the will of the people upon that subject. I will here remark, that it is utterly impossible for me to ascertain the will of my constituents. Why? Because large numbers of them are soldiers in the Southern army, and there is no mail connecting them with any portion of the State of Missouri; and not a single citizen in that section of the country can be induced to come within the military lines unless forced there by the necessity of protection, and there are some of them—a good many. Then, a very large number of the people of my district are not in a condition to be counselled upon this subject. I do not know the will of my constituents, because I cannot see them. I dare not leave the town in which I live and go the distance of ten miles, lest I be arrested. And yet we are called upon by this body to enact laws and deprive them of the rights of freemen. For these reasons, I shall oppose the minority report. I am in favor of submitting this matter to the people when the people can be heard, and not before; but to deny them the right of passing upon our action is an insult added to an injury that has already been inflicted upon them.

I do not know that it would be proper for me to enter into the discussion of our Federal relations. I came here, sir, with the purpose of simply giving a silent vote. Indeed I doubt the propriety of my being here at all. I am sure I feel confident in my mind that the people of South-east Missouri condemn the action of this body. I believe we do not reflect their will; and I believe, whenever an opportunity is offered them, so that they can go to the polls without being in danger of bayonets, that they will vote three to one against the action of this Convention. I believe, then, that so far as my action is concerned, if I vote at all, I must vote as I believe my people desire; and, believing that they are opposed to the action of this Convention, and were from the first, I must reflect their will now, not having any evidence that they have changed: and the best vote I could give is that the action of this Convention is wrong in itself. I say, sir, I doubt the propriety of my entering into a discussion of our Federal relations. The doctrine of coercion and subjugation—these things were all discussed in the Convention in March last; but it would not be amiss, I believe, to read the resolutions of different gentlemen upon this floor which were introduced in March last, to show the feeling they entertained then almost unanimously, that an attempt to coerce the Southern States would meet with failure and result in the ultimate destruction of the Government. I have no doubt that the members of this body are sincere in all they do, and that their motives are of the best kind. I believe they are, and that they firmly believe they are doing what is right, and that it is their duty to lend all the aid in their power to the efforts now being made to drive out the marauders and secessionists under Gen. Price. But, Mr. President, my conviction is, that every step taken in that direction has been and will continue to be attended with evil. In the first place, the deposition of Jackson was irritating in itself. The organizing of an army under the first call, aided by the proclamation of Fremont, has tended more, in my judgment, to drive men out of the State than anything else. I believe thousands of citizens have joined the army of Price who would have remained at home, in peace, if it had not been for the action of this Convention in July. I say, these acts—Gov. Gamble's proclamation calling for 32,000 volunteers, and the probability that it would be attended with drafting, together with the proclamation of

Fremont, confiscating the slave property of rebels—all these things, I say, have tended, more than anything else, to drive the people out of the State of Missouri, and make thousands of soldiers for Price's army. Yet these gentlemen, I am bound to say, have done what they believe to be proper and just. Mr. Howell and others introduced, in March last, these resolutions:

Resolved, That we, the people of the State of Missouri, by our delegates in Convention assembled, being ardently attached to the Union of the States of this Confederacy, and desirous of maintaining and transmitting it to succeeding generations according to the letter and spirit of the Constitution, which we regard as the highest effort of statesmanship yet made; in view of the fact that seven of the States of said Confederacy have, in their sovereign capacity, adopted ordinances declaring their connection with the General Government dissolved, and have further declared to the world a confederated government among themselves; and several other States are deliberating as to withdrawing from the Union; and that, in our opinion, any force employed against said States that have declared themselves withdrawn from the Union (or that may so declare,) by the General Government would destroy all hope of reconstructing or preserving the Union, do earnestly remonstrate and protest against any and all coercion, or attempts at coercion, of said States, or any of them, into submission to the General Government, whether it be clothed with the name or pretense of executing the laws of the Union or otherwise, and declare that in such contingency Missouri will not view the same with indifference.

Mr. Dunn offered the following:

Resolved by the People of the State of Missouri in Convention assembled, That we are in favor of the adjustment of our national troubles, upon the basis of the amendments to the Constitution of the United States proposed by Senator Crittenden, thereby arresting the progress of revolution, and securing our constitutional rights in the Union, and removing forever from the arena of party politics the dangerous sectional questions that have brought us to the verge of ruin.

Mr. Woolfolk offered the following:

Resolved, That the present crisis demands that the rights of the Slave States should be secured to them by amendments to the Consti-

tution, and that this Convention recommends to the Legislature of Missouri that they apply to Congress to call a General Convention of all the States in the manner provided by the Constitution for the purpose of making such amendments thereto as will secure the rights of the Slave States, restore peace, and relieve the Southern mind of apprehension for the future.

Mr. Stewart offered the following:

Resolved, That in the opinion of this Convention a Convention of the people of the Border States for the purpose of presenting a plan of Compromise to a Convention of the people of all the States, would be the most sure and efficacious method of adjusting in a fraternal spirit the alarming discords which threaten the disruption of the Government.

Mr. Linton offered the following:

Resolved, That there exists no adequate cause why Missouri should secede from the Union, and that she will do all that she can to restore peace to the same by satisfactory compromises.

Mr. Hendricks offered the following resolutions:

1. *Resolved*, That at the time of the adoption of the Federal Constitution it was the understanding and intention of the people of the United States that they were thereby united together for all the purposes expressed and contemplated in that instrument as one people, inseparable and forever.

2. *Resolved*, That the provisions of the Federal Constitution were understood and intended by the people of the United States to be the supreme law of the land, and not a mere compact; and for violations and infractions thereof by the Federal or any State government, disintegration was not contemplated, but remedies as provided in the Constitution to be sought and obtained in the Union.

3. *Resolved*, That while the right of revolution, for adequate cause, is not denied, yet the Constitution of the United States, and acts of Congress made in pursuance thereof for the admission of new States into the Union as integral parts of the United States, being the supreme law of the land, no Ordinance of Secession adopted by a State government can abrogate them.

4. *Resolved*, That the Ordinances of Secession adopted by the several States of the Union are unauthorized in law and without adequate cause in fact, and when we are called upon to follow their example it is right and proper for

us to consider the legality and propriety of doing so.

5. *Resolved*, That the action of several of our sister States, in adopting Ordinances of Secession, is no justifiable cause for Missouri to secede.

Mr. McFerran offered the following :

Resolved, That Missouri deplors the sectional strife and alienation existing between the North and the South, and regards the same as inimical to the dearest rights of Missouri and the peace and perpetuity of our Federal Union.

2. *Resolved*, That Missouri is an integral part of the great West, and declares her fealty and attachment to her own interests and section, and invites her sister States of the West to ignore the dogmas of New England on the one hand, and the Gulf States on the other; and at once to inaugurate a Western policy, loyal to the Federal Constitution and the Union of the States.

Mr. Breckinridge offered the following resolutions :

Resolved by the People of Missouri in Convention assembled, That secession is a dangerous political heresy, finding no warrant in the constitution or laws which lie at the foundation of our systems of government.

Resolved, That Missouri will do nothing to sanction, support or countenance the pretended right of secession, since its approval by the people involves the destruction of all our institutions, whether State or Federal.

Resolved, That the government which our fathers formed, and which for nearly three quarters of a century has failed in nothing to answer the ends for which it was established, is suited to the habits, and adapted to the wants of the American people, and that every dictate of wisdom requires us to direct our efforts rather to its preservation than the formation of any substitute for it.

Resolved, That we deplore the action of some of our Southern brethren in adopting ordinances of Secession, and assuming a hostile attitude towards the Federal authorities. In asserting that secession is a remedy for the grievances of which the South complains; in seeking to destroy the Federal Government, which is of itself guiltless of wrong; and in forgetting that in and through the Union are better means and ampler facilities for redressing all grievance than out of it—they have committed grave errors; and whilst Missouri will exhaust all efforts in restoring harmony and

securing justice, she recognizes no obligation to support them in these proceedings, believing that thereby she would prejudice rather than promote the best interests of all concerned.

Resolved, That it is essential to the existence of government that some authority should be charged with the duty of executing the laws, and that the proper action of the constituted authorities should be supported and obeyed; and although we deprecate any collision between the Federal Government and our disaffected Southern brethren, it is the opinion of this Convention that these duties and obligations, as prescribed by and under our Federal Constitution, cannot be annulled or impaired consistently with the peace, dignity, or existence of the government, State or Federal.

Resolved, That for the thorough and final removal of all cause of complaint against our brethren of the Northern States, we desire the enforcement of the Constitutional guarantee concerning the rendition of fugitives from service, a renunciation of any purpose to interfere with slavery in the States or in the District of Columbia, or with the inter-state slave trade, and some equitable and complete adjustment of the territorial question based upon an abandonment by the North of any purpose to use the power of the General Government to repress or extinguish slavery, and by the South of any purpose to use the power of the General Government to perpetuate and extend it; and that we confidently rely upon the justice of our Northern brethren to aid by appropriate legislation, or by adequate constitutional amendments, in producing these results, and in securing their enforcement and observance by a cordial compliance with their spirit.

Resolved, That we appeal to our sister States of Kentucky, Arkansas, Tennessee, North Carolina, Virginia, Maryland, and Delaware, whose interests are so closely identified with our own, to stand firmly with us in the position we assume, asking of our Northern brethren the full recognition of our just claims, and of our Southern brethren a reconsideration of their hasty action—that so may be restored the old relations of peace, prosperity and perfect union.

The object I have in reading these resolutions is not to show the inconsistency of gentlemen at all, for I do not think they have been guilty of any; but they are read for the purpose of showing that the southern people have just cause of complaint; but these gentlemen almost all deny that those causes of

complaint are sufficient in themselves to warrant the States in seceding. At the time of our first session here, we all looked upon the difficulty between the Northern and the Southern States as grounded in a just cause of complaint. There are other resolutions which even go further than those I have read; but I will not take up the time of this body in reading them. There are, however, five resolutions, offered by the Committee on Federal Relations, to which I desire to call the attention of the Convention. These resolutions, together with an amendment offered by Mr. Shackelford of Howard, were adopted by the almost unanimous consent of this Convention. The adoption of these resolutions exhibits the fact, that the Convention then entertained the opinion that if a collision ensued between the General Government and the seceded States, the country would be ruined and all lost. Notwithstanding these Southern States had taken the forts and all the property of the Government in the seceded States, yet the general belief was expressed by this Convention that it would be bad policy for the General Government to enforce its laws in the seceded States. They thought it would be better to withdraw the forces from all these forts rather than plunge this country into a civil war. And the resolutions all tended to show that the first gun fired would result in civil war and the destruction of the country. This has been verified, and I believe the Administration is responsible for it. I believe if Lincoln had pursued a more pacific course, and withdrawn his forces from Sumpter, this country would have been at peace. Do you not remember with what joy and satisfaction it was heralded all over the United States that such was to be the policy of the Administration? The Northern papers condemned it; but for the sake of restoring peace we were willing to sanction this conduct of the President, and surrender these forts to the Southern States. But the policy of the General Government was changed, they undertook to reinforce Sumpter, and the result was an inevitable war; and we have grown more bloodthirsty ever since. The proclamation calling for 75,000 men was issued, and all succeeding measures showed that the course of the President towards the Southern States would result in exceeding great evil. And it is upon us now. How are we to meet it? Gentlemen say we must drive out and extinguish the Southern people. I do not believe that is the true policy

of this Government, to destroy one half of it in order to perpetuate its existence; nor do I believe that if these States are subjugated that they can be held except as subjugated provinces. You might as well undertake to unite fire and gunpowder as to undertake to unite the Southern and the Northern people; for, to all intents and purposes, they are a separate people. They have a greater animosity and hatred to each other, in my humble opinion, than the people of the United States entertain towards any foreign power. The hatred is most bitter, and the continuance of this war only aggravates the difficulty; and I confess it is not for me to say how or when it shall be ended. There was cause of complaint. The North refused to enforce the Fugitive Slave Law, and all the action of the Northern people tended to show the people of the South that the North was bitterly opposed to the existence of slavery. The Southern people were well aware that their subjugation would be their utter destruction, or the destruction of the institution of slavery, which they hold to be one of their most vital institutions. They feel that they are dependent upon it—that the white man is not able to cultivate the rice and the cotton field; and, so feeling, you cannot unite them with the Northern States.

Now, a few words in regard to the new Government or State Administration. I deplore the conduct of Gov. Jackson as much as any man; yet his action can be readily accounted for and based upon what many regard as just grounds. It was known that there were treasonable gentlemen who had been indicted, arrested and held to bail. The editor of the *Journal*, I am told, Mr. Tucker, gave bonds, and Jackson and Price had both been indicted. This may be true. Now, if Gov. Jackson was a traitor to the Government of the United States, or by any action of his had undertaken to take the State of Missouri out of the Union, what was clearly the bounden duty of the Federal authorities in the premises? Why, it was not to proclaim to the world what they intended to do, but to indict these persons for their crimes and go to work secretly. Having indicted Gov. Jackson, instead of sending an army to capture him, the officers of the law should have laid their hands upon him. But I believe it was not the policy to arrest him, but to drive him out of the State, to send an army after him, and announce the departure of that army. What was the result? The Government send an army and he is notified

of the fact. He flees from the Capital, and gets such men as he can summon, raises an army, makes battle, and is driven back and out of the State. He goes to the South, collects an army, returns to the State, and what do you see? Instead of being driven out, he has a stronger hold on Missouri to-day than he had then, or when he had an interview with Lyon and Blair, when those propositions submitted to them by Jackson were rejected. He had no soldiers then, but now he has thousands of the citizens of Missouri, who are headed, and controlled, and managed by a gentleman who was elected President of this Convention at its first session by a large majority, and against whom I voted. There was not in the State a more honorable or high-minded gentleman than Sterling Price at that period. He was beloved by the State as a statesman and a civilian; yet he has been driven from Missouri, and is now branded as a murderer, a robber, and a coward. Do you expect such a policy as has been proposed by this Convention will bring back those people who have flocked to his standard? Do you believe that measures of a stringent character, tending to deprive people of their property—acts of confiscation—do you believe these will bring them back from their allegiance to Price and Jackson? On the contrary, if that policy be adopted, it will greatly multiply the enemies of the Government in this State. Such a policy will increase the armies of Price and Jackson. There are thousands who would have been in this State to-day, engaged in the peaceful occupations of life, if it had not been for the wretched policy pursued by the General Government towards the people of the State of Missouri. Why the necessity of sending armed troops all through the State of Missouri? I do not deny the right of the General Government to do so—it has a perfect right to send its troops, if necessary, through the State, to protect its citizens; but what I did condemn, and have and will condemn, and speak against as long as I am allowed to do it, is that indiscriminate arrest and punishment of citizens against whom there can be nothing brought. They are the persons who have the right to complain. So far as my personal experience is concerned, I know large numbers of men who have been incarcerated for weeks in my own town, and who, when brought before the court martial, have been discharged for want of witnesses against them. This policy I hold to be the most wretched ever adopted towards

any people, and it has driven thousands of people of the State of Missouri to resort to arms. You cannot take a man and punish him, whip him, abuse him, and then tell him you will reason with him; you must reason first before you whip him. And that brings me to state what I understand to be the fact, that many of the Federal soldiers often whip the naked backs of some of the citizens of the State; and I have heard that the venerable Dr. Rifle, who was once honored with a seat in Congress—now near the grave—was tied to a stake one night, and kept there in a condition of helplessness. Now, these things do not justify the armies on the other side in marauding upon Union men. Doubtless, much crime is committed on the other side. I have evidence of this fact. My honorable colleague, Mr. Leeper, has suffered; while he has suffered, I have been protected. There, I am looked upon as a man who sympathizes with the South, and yet my colleague is a Union man, and has been driven from his home. These things are to be deprecated; but who inaugurated these things? The system was inaugurated long before Price had an army in Missouri. It was inaugurated at Camp Jackson on the 10th of May, and shortly after in my own town, and also in other portions of the State. These things have brought about a sad state of affairs, and compelled the people of the State to take up arms to defend themselves; and we come here seemingly with the object not to pacify them but to pass laws disfranchising them, depriving them of the right to vote—laws to confiscate their property—and, after all this, ask them to come forward and support the Government.

[The speaker here concluded, his hour having expired.]

The vote was then taken, and the following gentlemen explained their votes:

Mr. HALL of Buchanan. One section of the ordinance contains a provision continuing the present officers in office. Of course, I have a delicacy about the matter, and I therefore hope I shall be excused from voting.

Mr. HOWELL. I hope I shall have the indulgence of the House in explaining the vote I propose to give on the ordinance now before the Convention. I shall vote on this question in reference to the present status and condition of the country irrespective of its merits under other circumstances. We are in a state of war now, and that war has, by means well known, been introduced into this State, and, as a ne-

cessary result, we are convulsed from centre to circumference. I believe that President Lincoln and the anti-slavery party at the North are primarily responsible for the war that has been introduced into the bosom of the State of Missouri; at the same time I believe it would be improper for me to give the reasons in support of that view. I censure Gov. Jackson, and did censure him, for his war proclamation at the time and under the circumstances it was issued; but I believe that, whatever may be the present opinion of my constituents upon that question—and I do not pretend to be thoroughly advised upon that subject—when Missouri is humbled in the dust, her every interest prostrated, her slave interest ruined—for, from the best information I can obtain, more than one-third of the slaves in the State of Missouri when the war commenced have disappeared since its unfortunate inauguration—when the people of the State, and my constituents, see and feel the effects of this thing as they will see and feel it, that they will regard this question as I do. But, notwithstanding my views as to the causes by which this war has been brought upon the country and introduced into this State, we are called upon here, as practical legislators and statesmen, to act for the present emergency and the best interests of the State. At the time we assembled at Jefferson City, this Convention passed an ordinance vacating the office of Chief Executive and some of the State departments, and then proceeded to fill them with new incumbents. At that time things had assumed such a shape in Missouri that I was not able to vote for that action, believing that it would only complicate our difficulties, and that it was pregnant of no good. But this measure was carried by this Convention. I believed, for the reasons I have assigned, that our action would not be prolific of good; that if the Governor's chair was declared vacant, it would result in evil; and further, that we were not elected for any such purpose. I believed then there was no need of filling that chair until the destiny of this State was settled. Mr. President, this is not a war between the people of the State of Missouri and one class or another; but a war between the Government of the United States and its adherents in the State of Missouri, and the Southern Confederacy and the adherents of the Southern Confederacy on the other side; and the destiny of Missouri must be determined, not by the power of one party or the other in the State of Missouri, but by the power of the

General Government on the one side, and the power of the Southern Confederacy on the other side. That being the case, and Missouri having but a small voice in this matter, her business being broken up and her courts suspended, I believed there was very little for a Governor of the State to do, and therefore I thought it was not necessary, if that office was vacated, to ignore the franchises of the people and fill that office. I believed there was no possible necessity for a Governor in the State of Missouri at that time, and I am still of that opinion. The State is stagnant—standing still—and all that is going on here is being operated by the General Government and the Southern Confederacy; and if this battle is to be fought out between the United States and the Southern Confederacy, I prefer it shall be fought under the organization of the respective parties. I am opposed to guerrilla warfare, which has been introduced into Missouri; I am opposed to the Home Guard system, and to anything that will induce and encourage sectional war in the State. I believe it is better that all those in this State who desire to fight for the Government of the United States should flock to the standard of the General Government and organize themselves under that standard; and that all who desire to fight for the Southern Confederacy should array themselves under that standard, and that there should be only two organizations. How is it to-day? We have troops here in Missouri acting under the General Government, others under the authority of the Southern Confederacy, others under the authority of Governor Gamble, and others under the authority of Gov. Jackson. All these things complicate our difficulties, and are calculated to stir up an intestine war, arraying neighbor against neighbor, and making this war more horrible in all its details. Another reason why I believe Missouri should not organize troops for this war, is this: her destiny is not that which Gov. Jackson declared it—an independent power—but her destiny in the future is either with the North or the South; and when her position shall be fixed with one or the other, the burdens and expenses of this war will be just upon us, in proportion to our population, as upon other States; so that an organization in the State would only complicate our difficulties and make the war more horrible within her borders. The people of the State will have to foot the bills and pay the expense of a State army when the war is over; and of course,

whether her position be with the United States or with the Southern Confederacy, she will have to pay her proportion of the expenses of either Government. If her position is maintained, where it is now, as one of the States of the United States, we cannot pay our proportion of the expenses and taxes of this war. For these reasons, Mr. President, and others I might mention, I shall vote in favor of the postponement of this election for the present, but not for the purpose of taking this election from the people. Mr. President, I hope to see the country come out of this war purified, and I hope to see the elective franchise maintained in all its integrity and purity. I voted before in favor of having the election held in November, and if the election could be held then in all its integrity and purity I would vote for it, but can it be done? What is the condition of the State of Missouri now? We are under martial law. Can freemen vote under martial law?—under the menaces of bayonets and bullets, and under the surveillance of Federal and Confederate officers in different sections of the State? I believe in my section of country, in the central portion of the State, there would be nothing to prevent an unbiassed election. We have neither State Guards there, nor have we, to any extent, Federal troops there; but that is not the case in the city we are now sitting in, or in the South-west or South-east; and until the State can be freed—until her position with the one power or the other can be ascertained—and that position must be ascertained by bullets and bayonets—until her position is ascertained and an election can be held free and unbiassed by military coercion or menace, I think it better for our institutions and the integrity of the elective franchise, that this election shall be postponed to that fortunate period, whenever it shall come. Now, I think it would be better not to postpone this election to any particular day. The status of Missouri will be settled, I hope, at no remote period, and when that period arrives the proper authorities of the State can take the steps to bring about an election; and when that election takes place, free from Federal bayonets, and the people have had their position assigned them, and the destiny of Missouri shall be cast at the ballot-box, all loyal and good citizens will submit to the verdict, as I will myself. Until that period comes, I think it better that this election should not be held. Suppose the election should be held in November, and this ordinance voted down,

Jackson would then be voted back into the Gubernatorial chair. In that case, would the Federal Government vacate the field? Will they say that our action has been unconstitutional? On the contrary, suppose the ordinance is sustained, and Governor Gamble or some other gentleman is elected Governor of the State of Missouri, Jackson and his confederate allies shall march back into Missouri and repulse the Federal forces, would they, in that case, pay any attention to the election, or to the Executive chosen to perform the duties of Governor? Under these circumstances, Mr. President, I think an election in November would amount to nothing, and I think it unnecessary, and that it would be an insult to the people to hold that election; and I shall therefore vote aye.

The vote was on the passage of the ordinance as follows: Ayes—49. Noes—1. Mr. Sayre voting in the negative, and Mr. Hall of Buchanan being excused.

MR. BRECKINRIDGE said he had been requested by the Presidents of the several railroads to offer a petition for the repeal of an act passed by the last Legislature which had been found impracticable in its operation, and he did so without being able at this time to declare what his views were touching general legislation by this Convention. He was not fully satisfied that it was proper for the Convention to enter into general legislation at all. The petition was for the repeal of the *pro rata* bill, and, at the speaker's request, was referred.

MR. TINDALL, from the Committee on Militia, reported a bill providing for the organization and government of the State. Laid on the table and made the special order for tomorrow.

The Convention then adjourned to 3 P. M.

AFTERNOON SESSION.

Met at 3 P. M.

The bill "abolishing certain offices, reducing salaries," &c., was taken up.

MR. MCFERRAN offered the following amendment:

"The respective county court clerks in this State shall take and subscribe the oath provided in this ordinance, and file the same in the office of the Secretary of State within the forty days aforesaid; and if any county court clerk shall fail to file said oath, duly subscribed and sworn to as aforesaid, his office is hereby declared vacant, and said vacancy shall be filled by the authority under the existing laws, and

in such case the other county officers of such county shall comply with the requirements of this ordinance within twenty days after said vacancy shall be filled under the provision of this ordinance."

Mr. BROADHEAD offered the following as an amendment to the amendment:

Strike out the 6th section of the ordinance, and insert:

"6. That the offices of the Judges of the Supreme Court, Judges of the Circuit Courts, Probate Judges, Sheriffs and Clerks of the several Courts of record of this State, and Recorders of Deeds, Register of Lands, Auditor of Public Accounts, State Treasurer, and Attorney General, be and the same are hereby declared vacant; and the Governor of the State is hereby authorized to fill the vacancies so created in the offices of Judges of the Supreme Court, Judges of the Circuit and Probate Courts, Register of Lands, Auditor of Public Accounts, State Treasurer, and Attorney General, by appointment of suitable persons to such offices.

"7. The Judges of the Supreme Court thus appointed shall have power to appoint a clerk for said court, and the Judges of the Circuit Courts shall have power to appoint clerks for their respective courts, and recorders of deeds and sheriffs of the counties within their respective circuits.

"8. The officers to be appointed by the provisions of this ordinance shall hold their respective offices until the expiration of the period for which the present incumbents of said offices have been elected, and until their successors are elected and qualified.

"9. The present incumbents of all other civil offices in the State, except the Governor, Lieutenant Governor, and Secretary of State, shall, within sixty days from the passage of this ordinance, take and subscribe over an affidavit to support the Constitution of the United States and of this State, that they will not take up arms against the Government of the United States nor the Provisional Government of this State, nor give aid or comfort to the enemies of either; and that they will maintain and support the Provisional Government established by the State Convention of Missouri. And the offices of all persons failing to file said oath, as herein provided, are hereby declared vacant; and upon the certificate of the clerks of the Circuit Courts of the respective counties where such offices may exist, to the effect that such persons have failed to file such an affidavit, the

Governor of the State shall proceed to fill such vacancies by appointment."

Mr. WRIGHT moved to lay the amendment on the table and have it printed, in order that it might be better understood.

The motion was lost.

Mr. WRIGHT I had supposed that a measure of this sort would not have been run through with so much swiftness. I take it for granted it is a settled matter, and I do not suppose that any thing I may say will be heeded by this Convention; but I feel it my duty to protest against adding new horrors to those which already rest upon our unhappy State. Continue as you have begun, and you will create complications from which men of the greatest foresight will never be able to extricate this State. It was said that Kentucky passed through two fires—distracted land titles and a distracted judiciary—and for thirty years the prosperity of that noble State was impeded by civil disasters arising from the want of a judiciary. Do you want to involve this State in greater difficulties? Will you continue to disregard the constitution and the popular vote? If so, it can not be disrespectful to say, that in all probability, if the action of this Convention shall continue in the line of its present policy, the period may not be distant when it will be destroyed and dispersed like the Rump Parliament of England. If you want to add the horrors of civil strife to what you have already done, just go on, and no man in the State will be secure in the title to his homestead. If I were to forget my country, and were to look to any measure designed to advance the interests of my profession, I could not forge any thing better calculated to bring a rich harvest to the bar than the bill which you now have under consideration. Are you anxious to have a distracted judiciary in this land after the experience of Kentucky in regard to her old court and new court; or is it because you fear, that if you leave it to the present Judges, they will mar and destroy your action? Do you not take counsel from your fears?

Mr. STEWART. I say as an individual, I am prepared to take the responsibility which the gentleman seems anxious to dodge. I tell you as a constitutional lawyer, that the people of the State of Missouri are here congregated to regulate and control the awful calamity now upon them. We had the power to depose a Governor and an infernal Legislature, and now we are called upon to use the most available means to save our families from those con-

temptible demagogues who have brought these troubles upon us. Although I entertain the most kindly feelings to the Judges of our courts, yet I think inasmuch as we have not only undertaken a military revolution, but a political revolution, the best policy is to put out of office those men who have the power to injure us. I am in favor of making a clean sweep—of chopping the thing right off at the roots—of getting a pair of tweezers and pulling every hair out by the roots, and making a special speech over it. In this way I think we might remove every vestige of secessionism from Missouri. Inasmuch as we have begun the work, let us go on with it like men. Sympathizers with traitors may shed their crocodile tears, but they will not move me. I have, perhaps, been guilty of human frailties, but I never was guilty of an attempt to tear down that flag around which cluster all our hopes. If others could say the same, the work which we propose would never have been demanded. I say, then, inasmuch as we have begun the work, let us carry it out.

MR. HOWELL. I shall vote against this amendment for the same reason the gentleman from Buchanan will vote for it. If I understood the gentleman aright, he avowed himself, shortly after we met, a guerrilla chief.

MR. STEWART. You misunderstood me.

MR. HOWELL. He was in favor, sir, of introducing—as he avowed in his resolution, which he offered the other day—the guerrilla system of warfare, under the forms of law, in Missouri. I am ready, in this awful crisis, to assist this Convention in bringing about any good that it has power to effect, and I am willing to join in any thing that will have a tendency to restore peace, quiet and harmony in the State. But if I were to rack my brain to produce a measure which would introduce effectually the guerrilla system of warfare, it would be to adopt the amendment which has been offered by the gentleman from St. Louis, (Mr. Broadhead,) and advocated by the guerrilla chief from Buchanan, (Mr. Stewart.) What is the proposition contained in this amendment? It is to decapitate the Supreme Judges, the Circuit Judges, the county court justices, and various other officers, not because these officers are useless and unnecessary—not because these officers are guilty of any overt act,—but because we fear them, for the reason that they have the power to do us harm. The people of the State elected these officers, and they have confidence in them and in their

qualifications; and I apprehend, sir, they will maintain that confidence. Is there any crime in this, against these officers? None. They are not guilty of any thing, except perhaps of holding an opinion not in coincidence with the action of this Convention. This amendment will apply to Union Judges as well as to Judges with Southern proclivities. But this lever will not be brought to bear upon those who are known to be Union men. They will be recognized. But wherever the sentiment of the people is obnoxious to the sentiment of the Convention, there men will be appointed to fill the offices of the people, and receive their money raised from the people by taxation. Are we gone so low, sir, as to tolerate such a thing in this State? I apprehend not. I believe I know the sentiment of the people of Missouri; I believe I know the people of my district, and I believe they are disposed to conform their action to the laws of the country and to the genius of our institutions; but I believe they are not prepared to have a monarchy foisted upon them and to succumb to it: and while I would not advise any thing of the kind, yet it would be impossible to restrain the people in their madness growing out of an outrage of this kind. We have heard of an attempt to remove from all parts of the State these guerrilla parties, instituted by the Federal Government and the Jackson dynasty, and my voice will still be raised for that laudable purpose, and my vote shall always be cast to remove from the people all causes that may be calculated to induce outbreaks. Now, I am willing to lop off all useless offices that we do not stand in need of; but if we vacate certain offices, I am not willing that they shall be filled by the Governor, but by the people. What have the people done to stultify themselves? What have the people done to show that they are incapable of filling their offices? Sir, I say we had better pause in our career; we had better withhold the hand of devastation. We should scatter as few irritating causes among the people as possible. I am the more surprised at the proposition coming from the quarter it does. I suppose it meets the concurrence of the committee of which the mover was a member. I hope, however, the amendment will be voted down.

MR. McFERRAN. I am sorry to find the gentleman is disposed to argue this matter wholly upon assumption. The gentleman began by assuming that the matter was already cut and dried, and would pass of course; overlooking entirely the fact, that the committee which re-

ported the measure consisted of five members, and that this amendment is offered by but one, the other four concurring in the report as offered by the committee. I regret that he has indulged in such a course of argument. To assume that a matter is already determined is a poor sort of argument. I do not purpose, sir, to argue the matter. It is before the Convention, and they, no doubt, fully understand the subject; and, for my part, I am perfectly willing to let the Convention vote upon it, and hope a vote will be taken without further discussion. I therefore move the previous question.

Motion sustained.

The gentlemen explained their votes.

MR. BROADHEAD. I think all we do will amount to nothing unless we adopt this proposition. I am opposed to any half-way work, and I was in favor of this proposition last spring. I am opposed to binding the traitors of the country by test oaths. I know as a matter of fact that nine-tenths of the officers of the State Legislature were traitors, and I am therefore in favor of wiping them out. If we have not got the nerve to do it, then we have not got the power to do any thing. This cry of stirring up an animosity among the people can not deter me from doing what I consider right. These men who cry so, and who are so perfectly horrified, are the very men who have been permitted to break the peace of the country, instigated and led on by the very officers we propose to turn out—men who have no sympathy for the great cause in which we are engaged. If we can not do that, then we can not do any thing; unless we cut the evil up at the roots, it is useless to do any thing. Without undertaking to argue the question, I will merely ask that a memorial which I have here, signed by the members of the United States Grand Jury, be read. It is the voice of the Union men whom I have heard speak in all parts of the State.

The Clerk then read the memorial.

MR. BRECKINRIDGE. I find myself somewhat embarrassed by the fact that I happen to be honored with two offices. In addition to being a member of this body, I am also one of the judicial officers in the county in which I live. I trust, sir, even if I do hold an office which is stricken at by this ordinance, that I may give my views upon the matter without incurring the suspicion that I have any personal interest in the premises. So far as I am concerned myself, I certainly have none whatever. I have not even thought the honors of

the Judiciary so weighty, or the emoluments so great, as to cause me to desire to retain those honors or emoluments. But I am constrained by my judgment, in regard to what I deem best calculated to meet the demands of the present crisis, to say that I do not think the action proposed by this amendment necessary—I do not think it necessary or wise. I think the present need of the State requires that certain State officers should swear to support the constitution of the United States; that they should be required to be loyal, and that when it is ascertained that they are not loyal, then their official life should cease. I think the provisions of the ordinance reported by the committee peculiarly fortunate in reaching directly at the matter, and I am therefore in favor of it.

MR. STEWART. I am in favor of ousting every officer who is not loyal. My friend from Monroe (Mr. Howell) thinks it would be hard to discriminate between those who are loyal and disloyal. For myself, I rather prefer to see the application tried.

The amendment offered by Mr. Broadhead was then rejected by the following vote:

AYES—Messrs. Broadhead, Gantt, Henderson, How, Isbell, Johnson, Leeper, Maupin, Meyer, and Turner—9.

NOES—Messrs. Allen, Birch, Bogy, Breckinridge, Bridge, Douglass, Eitzen, Gravelly, Hall of Buchanan, Hall of Randolph, Hendricks, Hitchcock, Holmes, Howell, Irwin, Jackson, Jamison, Linton, Long, Marvin, McCormack, McDowell, McFerran, Noell, Orr, Phillips, Pipkin, Pomeroy, Rowland, Smith of Linn, Smith of St. L., Stewart, Tindall, Welch, Woolfolk, Wright, Vanbuskirk, Zimmerman, and Mr. President—40.

The amendment offered by Mr. McFERRAN was then taken up.

MR. HALL of Randolph, in explanation of his vote, said:

I wish to state some of the reasons influencing my action upon this amendment, and the proposition to which this is an amendment. You are fixing a test oath for the faithful discharge of the duties of an officer, which is not a test, and which experience shows has not been a test. Every one of these officers have taken the oath, and some of them—it has been said, many of them—have violated the oath; and now, for the purpose of making them discharge their duties, you are going to require them to swear over again. If they have already violated the oath, then we have no reason

to suppose that they will not do it again. You are presenting as a test, that which every day's experience shows is no test; and if every officer chooses to take that oath over again which he has already violated, he can do so and be unfaithful still; he will only add to the guilt of his perjury. I desire we shall act in regard to those shown to be unfaithful, in a summary manner. I think it is our duty to authorize the Governor to remove such officers as he finds it necessary to remove, and put others in their places. He will have a better opportunity of ascertaining who are fit, and who are unfit, than we. I shall therefore vote against these tests, because I consider they will accomplish nothing.

Mr. WRIGHT. I shall vote aye upon this proposition, upon the principle that it is right to amend and make a measure as good as pos-

sible. I will help perfect the measure, with the expectation of voting against the main proposition.

The amendment was adopted — ayes 36, noes 14.

Mr. LONG moved to except the School Commissioner of St. Louis county from the provisions of the bill.

Mr. PIPKIN of Ironton, at this point, asked leave of absence. He had just heard that new disturbances had occurred in his neighborhood, and he felt it his duty to go to his family. He had learned that Big River bridge, on the Iron Mountain railroad, had been buried.

Objection was made by Mr. STEWART, and the Convention refused to grant leave of absence.

The Convention then adjourned.

SIXTH DAY.

WEDNESDAY, October 16, 1861.

Met at 10 A. M.

Prayer by Rev. J. J. PORTER.

Mr. WELCH offered the following resolutions:

Resolved, That the certificates of pay of the members and officers of this Convention, signed by the President and attested by the Secretary of said Convention, shall be received by the various collectors of this State in payment of all taxes and dues, due or to become due to the State, and the Auditor and Treasurer of State shall pass upon and allow the amount so paid by said collectors on said certificates as so much money paid by said collectors.

Resolved, That nothing in the foregoing resolution shall be construed to prevent said certificates from being presented directly to the Auditor and Treasurer of State for allowance and payment, but said certificates shall be audited and paid by said officers, upon presentation, out of any money in the treasury not otherwise appropriated.

Resolved, Said certificates shall be assignable by the indorsement of the name of the member or officer to whom the same shall be due and payable, and said certificate, so indorsed, shall entitle the holder to all the rights which the

original owner or holder might have under these resolutions, and the same shall be allowed and paid to said holder in all respects as if he were the party to whom the same were originally due.

Mr. PIPKIN. I conceive this body has no right to appropriate the money of the State, and upon this proposition I desire the ayes and noes.

The vote was taken with the following result: ayes 42, noes 9.

The bill "abolishing certain offices, reducing salaries," &c., was taken up.

Mr. McFERRAN accepted Mr. Long's amendment excepting the School Commissioner of St. Louis county from the provisions of the bill which was offered yesterday as an amendment to Mr. McFerran's amendment.

Mr. BROADHEAD. I object. I am willing and shall be in favor of striking out the whole section. The office of School Commissioner of the different counties is a small affair, anyhow, so far as the pay is concerned. The office is important, but the pay does not exceed \$200 in each county. I am opposed to making any distinction between St. Louis county and any other county. It does not look well on the

record. It looks too much like special legislation, a thing which we have denounced on the part of our Legislatures heretofore.

Mr. LONG. There should be a distinction made and special legislation for St. Louis Co. The School Commissioner's duties for this county are not the same as in other counties. He is the custodian of moneys for the support of the Schools, and has many important duties to perform which do not devolve upon other county commissioners.

Mr. HITCHCOCK. I would like to ask the gentleman from St. Louis (Mr. Long) whether the provisions in the third section of the bill are such that they can not be complied with in this county, or, in other words, will the clerk of the Board of County Commissioners of this county be able to perform the duties of School Commissioner? I understand that it will be impossible for him to do so.

Mr. LONG. I will state for the information of the Convention, that we have no County Court in this county, but a Board of County Commissioners. The clerk of this Board has one or two assistants employed all the time, and at different times during the year he is compelled to employ five or six. The School Commissioner of this county is occupied the whole time in the discharge of his duties, and if the clerk of the Board of County Commissioners is required to perform the same duties, it will be necessary for him to employ another assistant.

Mr. STEWART. The expatriated Governor stole all the School money, and our legislation in regard to this matter will amount to but little.

Mr. ALLEN. I think, if St. Louis requires special legislation, we should be willing to grant it. I am willing to vote these Commissioners all out elsewhere, and especially in my county, as the Commissioner there is a secessionist.

Mr. PIPKIN. The County School Commissioners are paid according to the services rendered; and if nothing is done, of course they get nothing. They are paid out of the county revenue, and the county is not bound to pay any thing except the County Commissioner himself makes out a statement and swears to it. The County Commissioner of my county is said to be in the Southern army; consequently he renders no service, and the County Court will not and can not audit his demands. There is no occasion for abolishing the office. It might operate upon him if he should

return; but it would operate upon others who are still loyal to the Union and working for the Schools. I can not, therefore, see the necessity of abolishing the office.

Mr. McFERRAN. I know the gentleman has stated the fact in regard to the payment of the salary by the counties, but I know further that the School Commissioners of every county are sure to do something in order to draw their salaries for the full amount. The adoption of the amendment will save the State some \$20,000. The County Clerks can perform the duties just as well, except in St. Louis county, which is more extensive, and ought to be excepted.

The amendment was then agreed to.

Mr. McFERRAN. I am instructed by the Committee on Civil Officers to offer the following as a new section:

"SEC 8. Any person whatever who may take and subscribe the oath provided by this ordinance, and file the same in the office of the Secretary of State, or any County Clerk's office in this State, shall be exempt from arrest or punishment for offenses previously committed by taking up arms against the Provisional Government of this State, or giving aid and comfort to its enemies in the present civil war, subject to the penalties of perjury, as provided in this ordinance. And it shall be the duty of the Secretary of State, and respective County Clerks, to make out and deliver to persons filing such oath, a certificate of the fact under their respective seals of office, which certificate shall be *prima facie* evidence, in all courts and to all persons, that the person named therein has complied with and claims the benefit of this ordinance. And the Governor of this State is hereby directed to furnish a copy of this ordinance to the President of the United States immediately, and request him, in the name of the People of Missouri, by proclamation, to exempt all persons taking said oath under this ordinance from all penalties they may have incurred by taking up arms against the United States, or giving aid or comfort to its enemies, in the present civil war."

Mr. STEWART. I would like to know if the gentleman who offered this amendment was willing to allow these nurselings of hell—those men with the mark of Cain upon them—to come back? Is he willing to take the snake again to his bosom, by receiving in good fellowship men who had violated every principle of honor and duty?

Mr. STEWART proceeded at some length in

reply to Mr. Howell, and said he was no "guerilla chief," as that gentleman had intimated.

Mr. PIPKIN. I understand there are disturbances in my section of the State, and I am anxious to get away; I am tired of listening to a speech which has been delivered at least twenty times on this floor.

Mr. STEWART. I will instruct the Provost Marshal to arrest the secessionist. I would like to see him get out of town before he votes.

Mr. McFERRAN. At the suggestion of a gentleman, I will offer the following amendment to the amendment:

Strike out "within forty days aforesaid" (after the passage of the ordinance,) and insert "within ten days after receiving notice of the passage of this ordinance, being within forty days after the passage thereof."

The original amendment requires all persons who seek the benefit of the ordinance to file an oath within forty days after receiving notice of the passage of the act, but the amendment provides that the person shall file the oath within ten days after receiving notice, and within forty days after the passage of the act.

The amendment to the amendment was then adopted and the original amendment agreed to.

Mr. BROADHEAD offered an amendment to the 5th section:

After the word "State," in the first line, insert the following: "so far as the same are paid out of the State treasury."

The object of the amendment was not to affect the reduction of the salaries paid out of the county treasuries.

Mr. GANTT offered the following as an amendment to Mr. Broadhead's amendment: "Or made a burden on the county treasury by State legislation"; so that the amendment, as amended, would read:

"So far as the same are paid out of the State treasury, or made a burden on the county treasury by State legislation."

Mr. GANTT's amendment was rejected, and Mr. BROADHEAD's agreed to; but it was afterwards ascertained there was not a quorum voting in either case. The vote was then retaken on both the amendments.

Mr. BRCH. I have made an estimate, and find that by the operation of Mr. Gantt's amendment upwards of \$7,000 will be saved in county revenue alone.

Mr. GANTT's amendment was then adopted; ayes 35, noes 18.

The amendment of Mr. BROADHEAD, as amended, was then agreed to.

Mr. BRCH then moved to add, after the word "salaries," in the 5th section, "and fees"; so that the section shall read, that the "salaries and fees of all civil officers shall be reduced twenty per cent." He saw no reason why feed officers should be exempted any more than salaried officers.

The amendment was rejected.

Mr. HALL of Buchanan said that if they continued this system of offering amendments they would never get through; and moved the previous question.

At the request of Mr. McFERRAN, he withdrew it.

Mr. McFERRAN then offered the following amendment: Strike out the words "forty days," wherever they occur in the 6th section, and insert "sixty days." He did this for the reason that there were many portions of the State which might not be made acquainted with our action within forty days.

The amendment was agreed to.

Mr. HALL of Buchanan then renewed his call for the previous question.

Mr. BROADHEAD said he was opposed to any thing of the kind.

Mr. WELCH said he was opposed to the application of a gag law.

Mr. HALL said his object was to expedite business; but he would withdraw the call.

Mr. POMEROY offered the following as an amendment to the third section:

"The fees of said clerks for services herein contemplated shall in no case exceed the sum of fifty dollars per annum."

Adopted.

Mr. WELCH then offered a substitute for the first four sections. The substitute provides for the suspension of the salaries of the following officers: Board of Public Works, Superintendent of Common Schools, State Geologist, Assistant State Geologist, officers of the State Lunatic Asylum, officers of the Deaf and Dumb Asylum, Judges of the Circuit Courts, Circuit Attorneys (except St. Louis), Bank Commissioner, and Assistant Bank Commissioner.

Mr. WELCH. I desire, in offering this substitute, to bring before the Convention the merits of a system radically different from that proposed by the Committee on Ways and Means. I desire the Convention to consider these two systems, and judge of the comparative propriety of one or the other. The plan suggested by the committee provides for the total abolition of certain offices in this State.

The plan I have suggested in this substitute is that these offices shall remain as the people have ordained them; but that, in the present crisis, while any of these offices are idle, and not in the performance of their legitimate duties, their salaries shall be temporarily suspended. There are some serious objections to the report of the committee, unless it is proposed to amend the constitution; this, however, has not been proposed. The constitution, if I mistake not, provides that in some of the offices of this State, the salaries shall not be increased or diminished during the term of office. The Convention proposes to violate that section without amending it. They propose to decrease the salary of the Governor without making the necessary change in the constitution. Then, in regard to the Board of Public Works, if the Convention abolish that office, it may result in serious evil to the people. I have had some little experience in regard to the organization of this Board of Public Works, and in the Legislature of the State with reference to that Board. Several years ago, when the Railroads in this State desired the credit of the State to assist them in operating these highways, the Legislature, after affording them relief, saw fit, while they had the power—and very properly, as I think—to establish a Board of Public Works, with power to take charge of the State's interest in the various roads. Now, when the office is abolished, the interest of the State in these roads will be entirely unguarded. It is an important office, and I think it unwise on the part of the Convention to abolish it. It is true, that just at the present time the members of the Board are doing nothing but drawing their salaries; but it would be better to provide for a temporary suspension of their salaries. When peace is restored, that Board should be in existence. While these railroad charters were subject to legislation, the Legislature incorporated the Board of Public Works into them. Abolish this Board now, and you can not hereafter, when it may become necessary, amend those charters. When these roads asked the assistance of the State, they consented to the establishment of this Board; but if you abolish it now, these roads will never consent to the re-establishment of the Board. The State has loaned to these roads not less than \$24,000,000, and the Board of Public Works is required to watch over this immense amount of the wealth of the people of the State, and yet gentlemen propose to abolish the office entirely. I think,

sir, it would be far wiser to temporarily suspend the salaries, and let the office remain as it is. The Board is now part and parcel of the great internal improvement system of the State. It was created for the best interests of the State, and the people, through their several Legislatures, have refused to repeal the bill establishing the Board; hence, the creation of that Board has received the approbation of the people.

So far as the office of School Commissioner is concerned, that office can be re-established, but the Board of Public Works never can be. I know there are those anxious to have the Board of Public Works permanently discontinued, and to have their surveillance over the road discontinued; but the people at large have shown themselves decidedly opposed to any such scheme, and I trust it will not meet with the sanction of this Convention.

Mr. GANTT. I think it would be found, whenever the time comes and the matter is examined into, that not one of these road companies have a charter which can interfere with any lawful legislation of the State. Let them pay the interest on the public debt, and we will very willingly forego the surveillance of which the gentleman speaks. They have forfeited their charters over and over again, and are open to any legislation to which the Legislature may go into. I do not think there will be any difficulty on the subject at all. I therefore move to lay the amendment on the table.

Mr. STEWART reviewed the internal improvement question and recited some interesting facts in regard to its introduction, relative to the part he took in the matter; and how, upon one occasion, he was opposed in his efforts by a Mr. Peri, a member of the State Senate.

Mr. SMITH of Linn. It appears there are members of this Convention who conceive that certain other members can not vote without being lectured four or five times a day—must be reminded four or five times a day that the people are here in a body. I have become tired of this song, and unless it is stopped I will resign and go to my camp.

The PRESIDENT. I do not how the gentleman can obtain the object he desires.

Mr. SMITH of Linn. Then I will resign.

Mr. STEWART. I will have the Provost Marshal after you.

The vote was then taken, on Mr. GANTT's

motion, to lay Mr. Welch's substitute on the table. Motion sustained—ayes 43, noes 9.

Mr. HALL of Buchanan. I now renew my motion for the previous question.

Mr. ORR. I wish to make some remarks.

Mr. HALL. I would prefer to accommodate the gentleman, but here are gentlemen all around me who wish to make speeches, and if I withdraw for one I shall be compelled to withdraw for all.

Mr. PHILLIPS. I wish to remark that I have discovered that the gentleman from Johnson (Mr. Welch) is correct in regard to the constitutional difficulty in the way of the adoption of this report of the committee. The constitution provides that the salary of the Governor shall neither be increased nor diminished. If the previous question is sustained, it will prevent any amendment being offered to except the office of Governor.

Mr. TURNER. I observe there is a disposition to cut off all debate and amendments. This species of tactics meets my disapprobation. I see there are gentlemen here, who, as soon as they can get in their own amendments, are ready to spring the previous question, and cut off others.

The previous question was sustained.

Mr. HALL of Buchanan. I move that the bill be taken up by sections.

Motion sustained.

The Convention then adjourned to 3 P. M.

AFTERNOON SESSION.

Met at 3 P. M.

Mr. POMEROY. It has been suggested that my amendment is wrong, and I move a reconsideration.

The PRESIDENT. It can not be done except by unanimous consent.

Mr. GANTT. Well, then, it cannot be done.

The first and sections of the bill to abolish certain offices were then adopted without debate.

The third section was taken up.

Mr. SAYRE demanded the ayes and noes.

Mr. HALL of Buchanan (in explanation of his vote). At our last meeting, the propriety of our interfering with these offices was fully considered, and the opinion was entertained that we ought to confine our action to matters which had reference to the condition of affairs between Missouri and the United States. I am still of that opinion now, and hence, although

I should be glad to see these offices abolished, I do not think it is proper for us to interfere with them.

Mr. ORR. Having been selected upon the Committee of Civil Offices, I had desired to address the Convention in regard to the important measure which we are about to act upon; but, for some cause or other, this Convention has thought proper to choke me off. I believe there are not more than five men in this Convention who have proclivities towards secession, and I believe every one of these gentlemen have said all they desire to say, and every thing that can be said, to aid the rebels. It has been said that I have fled from my constituents and am a refugee, and I had desired to meet the argument of the gentleman who made this assertion; but, being deprived of the privilege of a reply, I can only vote upon this resolution, and let gentlemen judge as they think proper.

The vote was ayes 27, noes 23.

The fourth section was then adopted.

The fifth section was next considered.

Mr. PHILLIPS. I would ask the unanimous consent of the Convention for the privilege of offering an amendment to this fifth section. This section is in direct conflict with the 13th section of the 4th article of the Constitution.

Several gentlemen objected.

Mr. STEWART. We are above the constitution.

Mr. FOSTER (in explanation of his vote).—I would vote for this section if I did not think that it would conflict with the constitution.

Mr. HALL of Buchanan. I would cheerfully vote for this if I thought it was proper for us to interfere with matters of general legislation.

Mr. HOWELL. Permit me to say that I do not think this matter comes within the scope of our legitimate duty at all. I vote no.

Mr. TURNER. I would be glad to vote for this section of the ordinance, but my mind is not clear in regard to the constitutional provisions, and I vote no.

Mr. McFERRAN. It seems that the genius of some members has discovered a great many objections to this section of the ordinance. One gentleman thinks it unconstitutional, and another that it is general legislation, and therefore not within the purview of our authority. Now, I regard it as nothing more nor less than an attempt at retrenchment—a saving to the State, in her great trial, of her means, that they may be husbanded for other purposes. I do

not think the objections urged amount to any thing.

Mr. ORR. In explanation of my vote, I wish to say that I have no constitutional scruples in regard to this matter. I think we occupy the same position that the Constitutional Convention did thirty minutes after it passed the provision we propose to repeal. There is a little scruple which touches my pocket, however, as I shall lose a hundred dollars a year after it is passed; but with all that, I vote aye.

Mr. STEWART. I think, as I have said heretofore, although it seems to be a little disagreeable to some gentlemen, that we are the people of Missouri, and that we have the constitution of the State in our own fingers.

The section was disagreed to—ayes 24, noes 29.

The sixth section was next considered.

Mr. HITCHCOCK (in explanation of his vote). So far as this measure is concerned, I have no objection; I fear, however, some of the practical results. I should have preferred the measure spoken of yesterday; but rather than have nothing, I vote aye.

The section was agreed to—ayes 37, noes 15.

The seventh section was adopted without debate.

The eighth section was next considered.

Mr. BRECKINRIDGE. I love mercy, and I think gentlemen who make ordinances should cultivate it; and I also love justice. When Governor Gamble issued his proclamation sometime ago, he had the endorsement of the authorities at Washington that all persons taken up in arms against the Republic who should return, should be forgiven. I hope a great many availed themselves of that offer. But I am not willing now to promise, absolutely, mercy to a class of offenders which is very large, and some of whom deserve condign punishment. I hope it will be consistent with the Government to pardon in certain cases; but I am not willing, in all cases, to promise, absolutely, complete pardon.

Mr. BUSH. The adoption of this section would exempt from all punishment those who have brought all the misfortunes upon this State, and I do not think it would be right to do this; I can not, therefore, vote for the proposition. The former amnesty which was granted induced very few, if any, to come back as loyal citizens, although it caused a great many to perjure themselves.

Mr. FOSTER. I do not think we are sitting

here as a United States Court or Grand Jury, and consequently we have no right to propose to exonerate men from the highest crime in the land. The man who plots the overthrow of my Government is too great a villain to meet with any sympathy from me, and I never will vote for an ordinance to exonerate a man from a crime of this character. I am willing to meet things fairly and squarely. I have been trying to meet traitors, and I am willing to meet them here or wherever I can find them. I vote no.

Mr. MCCORMACK. I am informed that a number of bills have been found against parties in rebellion against the United States by the U. States Grand Jury; but if we pass this measure it seems to me we put a stop to all legal proceedings. I am therefore opposed to the adoption of this section.

Mr. MCFERRAN. I desire to explain the vote I shall give. The amnesty offered by Governor Gamble, which has been referred to, was so general in its terms, that there was no way of ascertaining who accepted it, or who did not accept it. A man might claim the amnesty or reject it, just as he saw proper. The proposition now before the Convention makes this matter specific, and requires certain conditions on the part of those who accept the amnesty. I think it is proper to offer those men who have, by false representations and generous and impulsive natures, been led into this rebellion, an opportunity to return to their homes. I think it is due by this Convention to say that much to them. So far as indictments pending for treason are concerned, there are none; and so far as the ordinance affects the General Government, it merely requests the President of the United States to give it effect. Besides all this, we do not assume that the President of the United States will invade the Judiciary of the country; and no intelligent man, involved in this rebellion, will suppose that his accepting this amnesty would relieve him from indictment if one were pending. I take the position that the President can not control the Judiciary.

Mr. FOSTER. Do I understand the gentleman to say that the President can not control the Judiciary?

Mr. MCFERRAN. Yes, sir. The gentleman seems to think there would be a difficulty about the matter—that the proclamation of the President exonerating persons in rebellion, would be interfering with the Judiciary of the country. We all know that the President has power to

pardon a man; and we presume, further, that if the President, by proclamation, releases any man who stands charged with a crime against the United States, the Judiciary of the Federal Government would not afterwards pardon that man.

Mr. STEWART. I think we should never allow a traitor to come back and infest the community with his infernal doctrine.

The section was agreed to—ayes 28, noes 25.

Mr. McDOWELL. I move to reconsider the vote on the fifth resolution. My object is to amend it by unanimous consent.

Mr. HALL of Buchanan. I move to lay the motion on the table.

Mr. BIRCH (in explanation of vote). We are an extra-constitutional body, called here because the constitution did not provide for certain things. We have enacted these four or five previous sections, but we had no authority to do it under the constitution; and so with all the rest of our work. We have not performed a single act, since we assembled, compatible with the constitution. We are here outside of the constitution, for weal or for woe. I intend to vote for all these measures. It cannot be pretended that they will be of no benefit to the State, and especially the 5th section, which will save the State some \$50,000.

The motion to lay upon the table was lost—ayes 21, noes 31.

Mr. McDOWELL's motion to reconsider was then sustained.

Mr. HOWELL. I ask leave to offer an amendment.

The PRESIDENT. It can not be done except by unanimous consent.

Mr. HOWELL. My amendment is to the 5th section; to strike out "twenty per cent.," and insert "fifty per cent."

Objection was made.

Mr. PHILLIPS. I offer an amendment to except the salary of the Governor.

Objections raised.

Mr. MARVIN. I voted for the previous question, and move a reconsideration.

The fifth section was then adopted without amendment—ayes 28, noes 21—3 excused.

Mr. GANTT. I call the attention of the Convention to the little progress we are making, and I move that we adjourn to 7 o'clock this evening.

Mr. HALL of Randolph. I give notice that on to-morrow I shall introduce a resolution limiting speakers to five minutes.

Adjourned to 7 o'clock.

NIGHT SESSION.

Met at 7 o'clock.

The Military Bill was taken up.

Mr. PHILLIPS offered an amendment to the bill, to strike out the words "or draft, if necessary."

Mr. ORR obtained the floor, and spoke about five minutes before the reporter was in attendance. At the point where the reporter began, he said:

Mr. ORR. The gentleman from St. Louis (Mr. Wright) said this Convention had dwindled down to a bare quorum, and he wondered what had become of the rest of the members. I said then, and I say now, that many of them did not dare to come here through fear of being arrested for treason. The gentleman went further, however, and said that many of us were refugees. He says he said it with all due respect—that is, the respect due such men. I suppose, I am one of the individuals whom he took the liberty to style a refugee. I take the liberty of saying that I am not a refugee, and that the gentleman is mistaken. It is true I fled for protection, but not from my constituents. Notwithstanding many of my constituents are secessionists, not one of them in the five counties I represent would have done me an injury; nor do I believe there is a leading secessionist in those five counties who would not intercede for my release if I was arrested. I did flee for protection, and from whom? From the very man whom I once helped to elevate to that chair! He came there and said, those who had taken an active part against the Confederates, and those who had given aid and comfort to the Provisional Government, would be treated as enemies. I had done a little of both. If I did not take a strong and active part in favor of this country, and against secession, it was because I could not do it. I did help to establish the Provisional Government, and therefore I conceived I was to be treated as an enemy. There were gentlemen there from abroad, from Africa, from Missouri, and from the Indian nations, and those were the kind of men I fled from.

As to whether the gentleman from St. Louis represents his constituents or not, that is a matter about which I know nothing, and care less. I have represented mine, and am willing to meet them now, if they will only dispense with the services of those gentlemen from foreign states who drove me from my home.

We have heard a great deal said about men being incarcerated in jail—how many have

been incarcerated, and how much property has been destroyed and run over by the Federal authorities. But have you heard any thing on the other side? Yes; I remember to have heard one gentleman—the gentleman from Ironton (Mr. Pipkin)—say, that his colleague had been badly treated; and that is all the wrong I have heard intimated on the sunny side of the question. It strikes me that a true Union man, who deplores the failings of the Federal Government, ought at least to say something of the outrages on the other side. I was told, that, the day after the battle of Springfield, Price and McCulloch issued proclamations declaring that citizens should be protected both in persons and property; but the same day their soldiers drove their wagons into my fields, devoured my property, and drove me from my home. I was not run off by my constituents, but by other people—by foreigners—and every dollar of property I had has been destroyed by them. They entered my house, tore up my books and papers, scattered the feathers in the beds, and broke the furniture. The same outrages were committed upon other Union citizens, and the course of the rebel troops, everywhere, has been marked by kindred outrages; yet they are not considered of sufficient importance, in the minds of some of the gentlemen who have spoken concerning the crimes committed by the Federal Government, to be worthy of so much as a single brief allusion. I admit both sides have done wrong, and there never was an army that did not do wrong. Our men have been going through the country, and jerking up men and swearing them; but you may swear these rebels until their heads are white, and you can not make Union men of them.

The gentleman from St. Louis went on to say that we could not enlist the Irish, because we wanted to crush out American liberty. He also said that we could not raise men under the State law, because we should first have to satisfy them that we were freemen ourselves—a thing which we could not do. He said, further, that he was not a free man; but, judging from his late course, I am inclined to think he is mistaken in this respect. I recollect back to the time when we first met here, how the gentleman with his eloquence depicted the absurdities of an old secession rag that hung out in the street; but he has got a strong squint in that direction himself now, and we can not expect any thing particularly complimentary from him. He says that this military law will be a

failure—that we can not drum up a regiment even though we hold out the inducements of honor and gold; while, on the other hand, “in some sections of the country you see will men get upon their own horses, and, without any prospect of reward, leave their homes to join the Southern army.” Why did the gentleman use the word, their *own* horses? I suppose it was to show that they did not steal their horses. Does not the gentleman know that they stole their horses? If he does not, then he has committed a blunder; and he says the commission of a blunder is worse than a crime. I know that in my immediate community they have stolen some 6,000 horses. “They take their guns and get on their *own* horses.” Why? “All this for gold.” I will tell you what the gentleman reminded me of, in the speech he made. It was difficult to tell which side he was on. Sometimes he would strike on one side and then on the other; and he reminded me of a man who was out hunting, once upon a time, and he saw something in the bushes that looked like a deer and also like a calf; thereupon he came to the conclusion that he could shoot so as to kill it if it was a deer, and miss it if it was a calf. “They take their guns and get upon their *own* horses”!

MR. FOSTER. If the speaker will allow me one question. When Col. Green stole seventy-nine horses out of Adair county, did they not become their *own* horses then?

MR. ORR. Certainly, as soon as they mounted them. These men with their horses went over the river and robbed the Lunatic Asylum of every thing, and took all the property they wanted everywhere, and spread ruin and desolation in their track. What sort of men are they? “Oh,” says the gentleman, “they don’t ever expect to have a cent paid them for their services!” I live where they have been thicker and bolder and more of them than you have seen. They do expect pay, and they have taken forty years of my labor towards their payment.

MR. WRIGHT. I never call a man to order, and I am very happy that this warfare has been made upon me. I do not care how many of these gentlemen fall upon me. All I ask is, that when they get through you will allow me to reply with a “blizzard.” What I said was this: I was not confining myself to the gentleman’s district, but I was confining myself to information received from North Missouri. I was retailing what I was informed transpired in North Missouri. I was undertaking to give

nothing of my own knowledge, but I was informed that in North Missouri such a state of things had transpired. The gentleman, with his usual felicity, has transposed and blundered over every thing I said.

MR. ORR. So far as "blizzards" are concerned, he is the gentleman who commenced this warfare. He commenced on me by holding me up to ridicule. So far as his "blizzards" are concerned, I fear them as little as any man he ever saw.

MR. WRIGHT. I did not allude to the gentleman at all. I did not mention his name. I stated the fact, that although I had been taunted with not representing my constituents, it could at least be said that I was not a refugee from them; and yet the gentleman says I was talking to him.

MR. ORR. Be kind enough to tell me who you were talking to, and I will go on with my "blizzards." If he told us what somebody else said, he did not make the crime any less. He has been informed that the men of North Missouri are lovers of liberty—all. Now, I happened to be in this city once, six or seven years ago, when the river was frozen over, and a large number of gentlemen—such lovers of liberty as the gentleman has been speaking of—went out of the city to sell whisky, and get rid of paying taxes. But before they had sold a great deal, a desperate set of highflyers went over and broke up their shanties. Then these lovers of liberty came back, and said they would get protection from the police. But they didn't get it; and these lovers of liberty in North Missouri will hardly get it, and they certainly don't deserve it.

The gentleman says we can't get men to enlist anyhow; and it strikes me a great many have enlisted, and are now helping to drive out the invaders. I know 10,000 men could have been raised in Southwest Missouri, under the call of Gov. Gamble, if it had been made a few days before this fight at Springfield. Since that time we have not had a chance to go there. There are thousands of men wanting arms all through the State, and as soon as they get them they will be ready to defend their homes from these Southern invaders.

The gentleman from St. Louis alludes to Lincoln. I am not an advocate in behalf of Lincoln. I did as much as I could to defeat his election. But I am a Lincoln man to-day, so far as he sustains the laws of the country. In the difficulty that arose when South Carolina first attempted to leave the Union, Clay

and Webster both rallied to the support of Jackson, and stood by him until the rebellion was crushed out; but that did not make them Democrats, and nobody considered them in that light.

The gentleman from St. Louis has a holy horror of martial law, and says as long as we have martial law we can not be freemen. I deplore the condition of the country that makes it necessary to have martial law as much as any man; but the times render it necessary. It was necessary in the time of Jackson. The gentleman shakes his head. He is one of the men who wants to sit still under all circumstances, especially when we can not see what is right. On that principle, we should have all starved to death. The first nourishment we drew might have been poisonous for all we knew; and if we had waited until we could see clearly, we certainly should have starved. But we didn't wait, and I grew to be a Union man whom nobody doubts. The gentleman labored hard to show that we did not know what we were doing here. What would have been the effect if we had done nothing, as the gentleman desired? Jackson and Reynolds had left the State without an executive head; the Convention had been called together by the State Legislature, and it became our duty to maintain the sovereignty of the State—and I think we have done it despite the gentleman's labors to the contrary.

"When you can't see clearly what to do, don't do any thing." Why? Because, if you hold still, Jackson and the niggers and the Indians will come here, and sweep you off as with the besom of destruction. Didn't you hear the Southern Confederacy say "let us alone." All they ask is to be let alone, and then they will come to St. Louis and tear the Union men into "blizzards," as I believe the gentleman says. We will not let them alone. I will help the South fight for every right to which she is entitled; and that Federal officer who attempts to infringe on the rights of the South will have my disapprobation. But it is not their right to go through the country, and take our property, and destroy every right we have, and compel loyal men to flee from their homes, their wives and their children. They have invaded our homes. They came within five miles of my house, and strewed the ground with the bones of their dead men. They have invaded this State, and, so help me God, I am willing to go into their country and help invade it. What more ought we to do? They commen-

ced this difficulty; they said they wanted a separation; they said they could not live with the North, and they were determined they would not. We did not commence this difficulty; they began it, and I think Lincoln did wrong, and is deserving of censure, for allowing the restless and dissatisfied scoundrels to run over the bravest man in the country. He ought to have burned Charleston to ashes—that's what he ought to have done.

"The institution of the Home Guards," the gentleman says, "was illegal." Now, I say, and every gentleman in this Convention knows there was no legal authority for the Home Guards. The Governor of the State refused to call out men to defend the interests of the State, and so the Home Guards were organized for self-preservation, which is the first law of nature; and if they had not been organized, there would not have been a bridge in Missouri to-day—they would have all been burnt; and although the organization of the Guards was illegal, yet when Congress met they voted to pay them. I do not want to live under a government that has not the power of self-preservation, and it was on this principle that the Home Guards were organized. When I was at home, I remained there and attended to my business until half a thousand ruffians drove me out; yet, according to the gentleman from St. Louis, I should wait until my case can be laid before a grand jury, or the Judge of the court. The Judge of the court is with the rebels, and we shall not have a grand jury until after the war is over, or until the Convention appoints one. Under these circumstances we are counseled to hold still and wait until the grand jury assembles. That might suit some men, but I think this Convention can see what to do a little more clearly than that.

The gentleman thinks that the various propositions in this Military Bill are unworthy our consideration; that we can not succeed in raising an army under this law, and he is disposed to look discouragingly upon all efforts in that direction. I believe he even contends that the United States Government had no right to send an army here at all. In relation to the financial condition of the country he is right; we shall have to pay a portion of the taxation when we are in a condition to pay our debts. But, let me tell the gentleman, he can not secure the voters of Missouri in this way. If I were satisfied to-night that such a debt would accumulate that we never could pay it, I would say, Prosecute the war to a successful termination;

and rather than see one solitary foot of this United States Government seized and taken off, and its independence acknowledged as another government, I would say, Go on with the war until the treasury notes will not sell for one dollar a bushel. Talk about the finances of the Government, and thereby endeavor to scare men from their duty, because the Government will be unable to pay its debts! We will pay our debts if possible; but at any rate we will prosecute the war to a successful termination. I have no fears at all as to the result, but I have fears that good men will be dragged into secession. I see good men, hundreds and thousands of young men, unthinking men, dragged into it; and hence we have voted to-day to hold out the olive-branch of peace to them, to induce them to lay down their arms and come back to the best Government in the world, where they shall be protected. But if nothing else will do, then as a last resort we will give them a "blizzard."

In relation to this Military Bill, I think it necessary that it should pass. If the people have not patriotism enough to fight them, we will make them do it. I do not believe such a necessity will arise; but we may have to resort to that extreme, and I therefore hope the provision for drafting will not be stricken out.

I will admit what the gentleman from St. Louis said in regard to U. S. gold. We have too many men fighting for gold and honor; but, on the other hand, I have no doubt we should have plenty of men to prosecute the war to a successful termination even though treasury notes were selling to-night at half a dollar a bushel.

In regard to action here, I think we should be in no hurry. What we are doing is of vital importance to every individual in Missouri, and our action should be calm and deliberate. We all admit that we are above the constitution, and everybody knows the Legislature intended to place us there, otherwise they would never have called us into existence.

The gentleman from St. Louis said the other day, if I mistake not, that his head and heart were both deceitful. I am not disposed to contradict the assertion, and I would not have disagreed with him even if he had gone the length of the Bible, and said it was "deceitful above all things and desperately wicked." [Laughter.]

MR. WRIGHT. Mr. President, I suppose this evening's entertainment is gotten up especially for my benefit. It is the first night session we

have had, and under the color of maturing a military bill, I find myself unexpectedly the object of a fusilade for imaginary offenses committed long ago.

Sir, it is one of the very peculiar circumstances attending my history in this Convention, that when I rise—as I always do, without any other preparation than intense thought upon the measures before us—and speak extemporaneously—days after I have spoken, and after the subjects of the debate have been acted on by this body—and new themes are under consideration—gentlemen rise in reply. Thus, at Jefferson, one of my colleagues—then distinguished, and more distinguished now—found it necessary, after attempting a reply at the moment, to sleep three nights upon a more deliberate answer.

The learned delegate from Clinton (Judge Birch) did indeed, on Saturday last, make a rejoinder on the spot to my speech of that day; but I congratulate that gentleman upon the improved character of his effort, as it appeared in the columns of the Republican, afterwards—improved in phrase and substance—and especially improved in some references personal to me, which were never made in debate.

Thus, also, my worthy colleague (Mr. Hitchcock) heard my speech of Saturday—gained the floor on that day, while yet the subject of debate was pending, and three days after the resolutions of the gentleman from Clinton were disposed of, he rises and delivers an elaborately prepared reply.

And now, to-night, last and least, comes the gentleman from Greene (Judge Orr), to try his hand upon the speech of Saturday. He comes with studied preparation, to hold me up as one having only a *pretended* love for the fundamental principles of American liberty guarantied by the Constitution, but lost sight of by the Federal administration. Now, sir, be assured, that I shall, after this night, take no pains to modify my principles to suit the gentleman from Greene. He may think of me whatever he pleases to think; but, as a true lover of constitutional freedom, I will say the gentleman from Greene is not the only instance in history, of a man who has zeal without knowledge, and passion without prudence—who mistakes rashness for vigor, and temerity for decision.

He tells us the story of a hunter, perplexed how so to shoot as to *kill* the object, if a *deer*, and *miss* it, if a *calf*. Sir, I can appreciate the dilemma of that sportsman, and as it is really

no purpose of mine to kill the latter animal, I shall be careful to point no *deadly* weapon anywhere in the direction of the gentleman from Greene.

I have another difficulty to night, Mr. President, almost insurmountable. It is the difficulty of conducting a debate with one who can not distinguish between any two ideas that have a remote family resemblance.

On Saturday, in a context which made the inquiry pertinent, "what shall we, as statesmen, in the present distracted condition of the country, do?" I quoted the maxim of Clay: "In all human affairs, and especially in affairs of government, experience teaches, that unless we can clearly see that our action will result in benefit, it is the highest dictate of wisdom not to act at all."

The gentleman from Greene, in reply, says: "if I had acted on that principle, my mother would never have raised her baby." I am not prepared to deny that proposition. Nor does it become me to object to the *rule* of action here which the gentleman announces for himself. It is, to say the least of it, intelligible. It furnishes the key by which we can unlock whatever may be obscure in his course as a member of this body. As a child he acted ignorantly well—doing essential deeds without any knowledge of what he was about, and never looking to consequences—and now, as a member of this Convention, he trusts to like happy instincts in the delicate and difficult duties of statesmanship. I trust that while I grant to him the privilege, to follow the blind instincts of a child,

"Mewling and puking in its mother's arms,"

I may, without offence, add, that the great statesman of the West did not frame or utter his maxim for *sucklings*. It was given for the benefit of those, who, having passed the narrow circle in which Providence limits the range of mere instinct, are subject to the wider sway of reason.

I objected to the organization of the Home Guard of Missouri, as an illegal and unconstitutional body. I denied the power of the President to create that organization, and I denounced the policy as eminently unwise. The gentleman from Greene says, that amounts to a denial of the right of the Federal Government to march an army into this State! Sir, is not all argument *thrown away* on such an adversary? Whoever heard me deny to the Federal Government such a power? Did I not emphati-

cally, at Jefferson City, concede that power? Did not the gentleman hear me proclaim it on the floor? Is not the admission recorded and published in my reported speeches? No man in or out of this body ever heard me utter any sentiment, or opinion, which by remote implication could be tortured into a denial of the power. I have never failed upon any appropriate occasion to denounce with emphasis the illegality and impolicy of the Home Guards. That organization was fraught with mischief. It inaugurated the guerrilla warfare in this State. It was the first fatal step that led to disorder and civil strife in Missouri—they followed it by natural and logical sequence. That has been my proposition from the beginning, and no member of this Convention up to the present hour has ventured to refute it.

Again, sir, on the proposition to raise an independent army in this State of 40,000 men, to be armed, equipped, and maintained by State revenue, at a period when the treasury is empty—when our credit is at ruinous discount, under the weight of thirty millions of indebtedness—when the people are unable to pay the taxes for ordinary State revenue—when the courts are closed to prevent the collection of debts by legal process—and when the Federal Government has now on our State soil 50,000 soldiers in arms,—I said, in opposition to the scheme, that it was impracticable in fact; and that, if practicable, it would rather foment discontents among our people than allay them. And the gentleman from Greene says, "that amounts to the proposition that we have no power to do anything against secession!"

But these are not all, nor the greatest perversions of my remarks perpetrated by the gentleman.

While suggesting reasons against the policy foreshadowed in the resolutions offered by the gentleman from Clinton, I cited information I had received as to the state of public sentiment on the *north* side of the Missouri river, from gentlemen who resided in that portion of our State. I thought the information was significant and important, from the fact that the secession forces had all been driven *south* of that river. I expressly stated, that my knowledge was not personal, and gave what had been told me, by gentlemen as credible and as indiscriminately Union men as the gentleman from Greene. The report was given with cautious accuracy in the words of my informers. They were words graphic and well matched to thought; and, if true, which I did not doubt,

and do not now, were well calculated to impress themselves upon the memory of any public man who is solicitous about the deplorable condition of our State and country, and is charged with duties bearing upon that condition. Sir, I need not go outside of this body for my informers—and, through a proper delicacy, I omitted to add the declared effect of such knowledge upon the minds of those who gave me the information. You remember, sir, the substance of that information as declared by me on Saturday. It was to the effect, that the double temptation of gold and honor was resisted when offered by the Federal Government—while men would be seen day and night on their horses, armed with rifle or shot-gun, making their way across the Missouri river. I deemed it to be the duty of statesmen to look into the *causes* which produced this state of things, and offered suggestions of what they were. You have just heard the gross and foul perversions made of that passage of my speech by the gentleman from Greene.

MR. ORR. What foul and gross perversions do you allude to?

MR. WRIGHT. The statement that "the gentleman from St. Louis *knew* everything"—"*knew* that every man who left for Price's army, rode his *own* horse"—and fouler still, "made the declaration to let the people know, that they did not *steal* the horses of other men." Sir, I can find no appropriate language to mark the disgust and contempt I feel for such mode of argumentation.

MR. ORR. So far as your contempt is concerned I disregard that; and as to the perversions, I ask the gentleman from St. Louis, if he means to say they were willful; if he does, I say it is a falsehood.

MR. WRIGHT. The perversions are gross and foul. It is impossible for me to say whether they were intentional or not. If they were the result of stupidity, they may be forgiven—if of malice, they are condemned, and that is the only answer I can give the gentleman.

MR. ORR. I object to any such perversion of my remarks. I believe every fair and candid gentleman in this Convention who reads the extract in question, will acknowledge that I did not pervert its meaning in the least. If the gentleman committed a blunder, he ought not to charge me with perverting what he said.

MR. WRIGHT. I am amazed that the gentleman would imply that the passages I quoted as offensive were not so intended by him.

What has the gentleman been doing for an hour, but trying to hold me up as one of questionable patriotism? What did he mean by the quotation from the Bible, delivered with so great complacency of tone and manner, if he did not intend it should have a personal application? Sir, speaking as a mortal conscious of his fallibility, as one who has long since learned the necessity of distrusting the best conclusions of his judgment, speaking with what I thought a becoming modesty, I did not ascribe to my views and opinions the quality of infallible truth. I gave them for what they were worth, as the best deductions I was able to make out of the complications which surround us, conceding that the honest workings of my mind may have deceived me into error. The gentleman from Greene says, in reply, "I will endorse all that; and the gentleman might have added, in the language of Scripture, that his heart also was *deceitful and desperately wicked*." As abstract truth, this is unquestionable; but the tone and manner of the gentleman, evinced a purpose wide of the pursuit of general metaphysics. The character of his hour's harangue—if it had any character at all—was malevolence. Yet he talks of the impropriety of casting imputations upon gentlemen!

Mr. President, I thought it our duty—a duty of perfect obligation—to find out, if we could, the causes of our discontents. I thought it especially our duty to discover the reason of the growing disloyalty of the people of this State. But if I am to judge from the combined attack upon me on this floor, this is a mistake. We are to resolve, but not investigate. We are to take action to preserve the peace of the State, but we are to shut our eyes upon the causes of disturbance. We are to furnish a remedy, but are not to know the disease! What is this but empiricism, as disgraceful in statesmanship as quackery in medicine. Truth even must not be told, exclaims the gentleman from Greene—truth, which lies at the very base of our legislation here, must be smothered! Why? Because, says this oracle, it may "give aid and comfort to the enemy." If the General Government starts measures utterly subversive of the Constitution, and wholly incompatible with the liberties of the people, it is not loyal to denounce the violation; for we learn from the gentleman from Clinton (Judge Birch) and from my colleague (Mr. Hitechoek) that such conduct would be criminal in any Union man! Oh, sir, it has come to this—that if the accidental, fanatical and pestilential Republican

Administration at Washington should, to-morrow, abolish, by edict, the trial by jury in America—overthrow the liberty of conscience, and set up an established religion, to be supported by tithes drawn from the production or money of the people—declare unlawful the right of the people to peaceably assemble, to deliberate and petition the Government for redress of grievances—and charge the Army and Navy of the United States with the execution of the decree—and one, with the love of constitutional liberty not yet extinguished in his breast, should rise in this body and denounce the usurpations,—there are those in this body who would also rise, and stigmatize him as an "aider and abettor of the enemy." Who are, sir, the best friends of the Union but those who, at every cost, struggle to keep the Government within the constitutional orbit of its action? The policy of the gentleman from Greene, and that of his associates, in combined attack upon me, must bring the Government to destruction. It will not require the assisting power of gravitation to sink it so low, that nothing but Omnipotence can ever lift it up.

Outside of this body, Mr. President, I find myself the object of attack. One anti-slavery press of this city—there may be others printed in a tongue unknown to me—utters its fulminations against my course in this body. I allude to the *Democrat*. While the press was free, I never noticed its comments upon my public action here. To canvass the conduct of public servants is the right and duty of a free press. A free press is one of the great agencies of liberty. I have ever battled for its constitutional immunities, at the peril of being called "an aider and abettor of the enemy." I shall continue thus to battle. If I descend to notice this press now, it is because it is enslaved—and slavery ought not to be impudent. I was not intoxicated by its praise, for it was too fulsome to be merited. I am not moved by its censure, for it is too indiscriminate to be deserved. If the conductor of this press had lived 3500 years, ago, in the days of the theocracy of Moses, he would have been found with his ear nailed to a door post, to announce to all Israel that he was a slave; and though his auricular appendages may not now be fastened by iron and wood, the earmarks of his servitude are as manifest as if they were.

Gentlemen may apply epithets to my course, but they have not shaken a position assumed by me in the speech of Saturday. I stated then the proposition, that the suppression of

one free press in the land by military power, enslaves all the rest. Who denies that proposition? It is as clear as any demonstration in mathematics.

MR. ORR. As the gentleman seems to direct his inquiry touching an enslaved press to the gentleman from Greene, I will say this: Admit that one suppressed press enslaves the press of the land; the so-called Southern Confederacy suppressed every press in their power which was not in consonance with the views of the secession leaders, and confiscated the property of Union men, long before we did any thing of the kind.

MR. WRIGHT. Well, suppose that to be so; I do not stop to inquire. Let it be so. But, Mr. President, who can fail to be amazed at that logic, which seeks to sustain one enormity perpetrated *here*, by showing a parallel outrage committed *in the South*? What is the chance for constitutional freedom if *offsets* are to justify every outrage upon liberty? The Southern people claim to be outside of our sphere; they do not acknowledge the supremacy and binding force of our Constitution. *They* may be estopped from complaining of any violation of that instrument committed by the Administration at Washington; but are those who do *not* belong to the Southern Confederacy, who are in *this Union under the Constitution*, to have their protestations against encroachments on their rights stifled by such argument? Is it not paying too high a price for "Union" to say, that *because* gentlemen in the South have rebelled, *therefore* we must consent to be made slaves? You say the gentlemen of the South have no right to insist on the constitutional action of this Government. Grant it; but has not every being within the limits of the Union who acknowledges himself to be a citizen of the United States, the right to be protected by the Government in all his constitutional privileges and immunities, and especially in those which are canonized by the Bill of Rights? Can you break those rights and expect to still his instinctive and patriotic clamors against the deed, by saying they do the same sort of thing in the South? Or, do you think to hush his murmurs by calling him an aider and abettor of the enemy? The enemy! What does he "aid and abet" but liberty—rational liberty—liberty identified with law—liberty, *possible only by restraints upon power*—and is that an enemy? Sir, that man is the best friend of the Union and the Government who insists that *the Government shall live the law of its life*.

I forgive the outside scurrility of the press aimed at me, with all its base ascription of unworthy motives applied to me for my action here, by reason of one immortal truth uttered in the libel. Distinguishing correctly between the Constitution and the Government, the writer says "*the Constitution is the law of the life of the Government*." The principle thus laid down is above all price, and was never couched in apter words.

I repeat it, for I would impress it on all who have charge of public affairs—"The Constitution is the *law of the life* of the Government." By this law it must live. It is dependent upon that law for its *existence*. Out of this law it has no life. This is true of all organizations, natural or artificial. The plant, the flower, the tree, must live the law of its life, or it dies; and so it is with that artificial organization which we name a Government. The truth is universal; it embraces every living thing in the Universe of God. If this Government is to live, it can only do so by keeping to the law of its life—the Constitution. Naturalists tell us that in the Vegetable kingdom, by change of place and culture plants have been turned into monsters, abhorrent to science and incapable of classification. If this free Government will not live the law of its life, it must perish as a Government of Freedom; but it may turn into something else—it may become a monster also—capable of classification, but abhorrent to our Fathers, and to all who prize the institutions they left us. Sir, all this is but an enlarged expression of the idea I attempted to convey in saying that liberty has no life save in the supreme and uncontrolled dominion of law. In my poor way, while I have been a member of this body, I have at all times labored to convince men that the Government should be kept to the Constitution. When I first took my seat I could say proudly, the Government has lived the law of its life. I can not say that now. I fear I shall never be able to say it again. I denounced the first departure from this law, and will continue to strike at every new departure—it may make in its wicked recklessness while I have the power of expression. The disloyalty of our people will increase upon every violation of their chartered rights. We had a majority of 80,000 votes in favor of the Union under the Constitution, in February. Where is it now, and why? Sir, I believe this night we are in a minority.

MR. SMITH. I think we have it yet.

MR. WRIGHT. It may be so, but I think all

indications are the other way. For one, I am not sanguine of retaining the loyalty of Missourians to a Government that has no respect for constitutional obligations. I judge them by myself. From a people accustomed to freedom we may expect every sacrifice for liberty; but for its opposite none.

The gentleman from Greene (Mr. Orr) seems moved by my reference to members of this body who are refugees from their constituents. The fact is undeniable, and my purpose in alluding to it was to show the changes of opinion among the people of this State since February, which render this body no longer an exponent of their will, and to start inquiry as to the causes that produced these changes. Pursuing the same line of thought, I spoke of the reign of martial law in this State, and now my colleague (Mr. Hitchcock) understands me to mean by that, that we—we, the Convention—*inaugurated* that outrage. This misconception is extraordinary. I thought I was perspicuous in charging that responsibility to a power *outside of and above* this body. I think this Convention has enough to answer for without being held responsible for the action of others.

The Convention did not inaugurate martial law in this State; and it will not be responsible for its reign over us, except in so far as it shall countenance and support it. I have not sought to make it responsible save for its own action. I charged that martial law, established by military power, over every inch of our territory, was one fruitful source of the increasing disloyalty of our people, because its maintenance overthrew the Constitution, and was incompatible with liberty. I gave this as one of the causes which had wrought, and was still working, a change of sentiment unfavorable to the Union.

I gave as another potent influence tending to the same disastrous result, the extraordinary and alarming claim, set up by the military power of the Federal Government, to try our citizens, *in no way connected with the land or naval service*, for their lives, by a drum-head court martial, against the express and unequivocal provisions of the Federal Constitution. That instrument declares that no person, unless he be connected with the army or navy, shall ever be tried for any crime, except by a jury of his country, taken from the vicinage. The best blood of England has been shed in the maintenance of that right, and in its defense the blood of our Fathers would have been freely spilt. Yet the gentleman from Greene finds in the

expression of these patriotic, liberty-loving sentiments, the evidence of my disloyalty! "Why," he asks, "did I not talk about the arrest of Union men in the South and the confiscation of property there?" Because it was not germane to the propositions before us, and because it was wide of the inquiry I was making of the causes which bred disloyalty here among *our own citizens*. Inquiring—investigating—to discover how and why Missourians every day become more and more dissatisfied with the Government under which they have been proud to live, and finding measures eminently calculated to produce such a result—because I did not encumber and confuse the argument by introducing the alien ingredient of "marauding arrests and expeditions in the South, *therefore*," says the gentleman, "your loyalty is questionable"!

I had thought, Mr. President, that it was incumbent on every gentleman here, in debate, to preserve at least some continuity of thought in argument, and some visible connection of subjects embraced by it. I shall adhere to a rule which favors perspicuity, without interlarding every sentence with a denunciation of secession and secessionists, even at the cost of having my allegiance to constitutional liberty suspected by the gentleman from Greene. If at any time I shall find it necessary, in debate here, to cover up a conscious lack of ideas upon the subject before us—failing in other resources, I may be driven to the expedient, quite familiar in this Hall, of denouncing the exploded dogma of secession, in phrases stereotyped for common use.

Mr. President, I felt it my duty as a member of this body to say, that, in my opinion, the loyalty and affections of our people for the Federal Government would not be augmented by the restrictive measures adopted by the agents of the Federal administration in this State, and that I feared and believed the action of this body at Jefferson contributed to our discontents. I told you there, that your action would not be sustained by our people; and I am constrained to say, that what you now propose to do will, in my judgment, multiply our unhappy disorders. For the counsels thus offered, I find myself the object of a joint attack, coming from various parts of this body. Elaborate and studied speeches are now made to suggestions made by me several days ago. I commend the gentlemen to their lamps. They must prepare and deliberate many days and nights before they can overthrow any one of the positions

assumed in the speech which has given them so much concern.

Which of them has attempted to refute the proposition, that no civilian can be tried by a drum-head court martial in war or peace? Who of them will declare that American liberty can survive a successful blow at that constitutional fortress?

Then as to martial law, inaugurated by military authority and maintained by it—and administered by the caprice, or will, or discretion, sound or unsound, of a soldier—is that compatible with American constitutional liberty? Is there any man in Missouri who would make either the President of the United States, or any soldier wearing its uniform, the arbiter of his life or liberty?

Can there be a law higher than the Constitution? Does war override the Constitution? If so, whenever this country is engaged in war, the Constitution is gone! An ambitious President may then, at any moment, rid himself of inconvenient limitations and restraints put upon Executive power by that instrument, and become Dictator by involving the nation in war. He may get us into war without a declaration by Congress. A British King can not destroy the Constitution of England by the expedient of war; are our liberties less secure than the liberties of our British ancestors? It fills me with alarm and shame to think such thoughts. Liberty cannot live an hour under the rule of martial law.

The speech of my colleague (Mr. Hitchcock) elaborately prepared, seems to have been designed to show that freemen may feel comfortable, when either a Dictator rules over them, or their lives and liberties hang upon the will of a soldier. The speech is able, ingenious, specious, and its rhetoric is unexceptionable. It does credit to his intellect and to his powers of argument. Still, it is a failure in so far as it was intended to justify martial law, or reconcile us to the sway of a Dictator—as every speech directed to such ends must be. The illustrations he furnishes from our own American annals are directly at war with the aim of his argument. He reads an *act passed by the Continental Congress*, to show that they made Washington Dictator, and that he declared martial law. I deny both propositions. Congress never clothed him with dictatorial powers—and Washington never declared martial law.

I said the speech was ingenious. The proposition the gentleman had to meet was, that

martial law established by the military power, originating in the edict of a soldier, and administered by him, or coming to him by the fiat of the President of the United States, was against the Constitution of the United States, and incompatible with liberty, among others; for the reason that, by that Constitution, "*the military power is ever, at all times, and in the worst of times, to be subordinate to the civil authority.*"

Now the case he cites is an act of the civil authority—a law of Congress conferring certain powers upon Washington, as Commander-in-Chief of the Army and Navy of the States. If the act had authorized Washington to declare martial law, the illustration proves that *without the act he had no such power*. It establishes that, as the chief military commander, he was not, in virtue of his office, able to declare martial law over the citizens within the limits of his command, and thus supports the position he was struggling to overthrow. But that is not the worst. The act did not authorize Washington to declare martial law. Sir, this is not all. The citation proves that *Washington himself is authority against the power claimed for the military*. He was the highest military officer of the revolution. He was familiar with military life. Knowing that he did not possess the power he needed, *he asked Congress to clothe him with it*. He called the powers he invoked "*extraordinary powers.*" And now, sir, on his appeal to Congress for "*extraordinary power,*" based upon the necessities of the times—for the revolution was not a year old—what did Congress grant him? They gave him power "*to raise sixteen battalions of infantry*"—"to take property which he needed at a *fair price*, if he could not buy it"—"*to arrest and confine persons who should refuse to receive the Continental currency, or were otherwise disaffected to the American cause: and to RETURN to the States of which such persons were citizens, their names, and the nature of their offenses, together with the witnesses to prove them.*" These powers were vested by Congress in the Commander-in-Chief for the space of six months, unless sooner revoked by Congress.

I submit, sir, stronger authority against martial law, flowing from the edict of a soldier, could not well be presented: First, he asks for power, because as a military commander he does not possess it; second, it is given by Congress to him for a limited period; and it is so given as that a military drum-head court martial should have no authority to try a civilian for actual or supposed offenses. He was to be remanded to the proper State, and the

nature of his offense specified, and the witnesses furnished to support the charge. The powers given came, as they ever ought to come, from the "*civil authority*."

Whatever restraints were, at that period of our history, imposed upon the civil rights of the people, emanated from their Representatives in the Congress. It presents a striking instance of the tenacity with which in that early day—amid the throes of a Revolution in its first year, before the birth of our Constitution, and prior to the written Declarations of Rights, which afterwards constituted the peculiar glory of our American Institutions—they held to the essential principles and safeguards of Liberty, gathered from the bloody experience and wisdom of their British ancestors.

In the case of our present sad history, Congress, a Republican Congress, refused to suspend the privilege of the writ of habeas corpus, though it had the constitutional power to do so. It wholly failed to give to the military power any authority to restrain the courts in the exercise of their legitimate and constitutional obligations. Congress has never passed such an act since the formation of our present Constitution. It has no power to suspend the writ. All that it can do lawfully is to provide, after the writ issues, what may be a sufficient return, to authorize the court in remanding the prisoner. The suspension of the privilege of the writ does not introduce or establish martial law, nor does it create a Dictatorship. It does confer on the military a larger power over the liberty of the citizen, but it confers neither unlimited nor irresponsible power. It still keeps the military power, as it ever must be, "subordinate to the civil authority." A bill having this scope was before the last Congress, but it failed to become a law.

Again, sir, my colleague has not been able to mend his position by the Rhode Island case, decided by the Supreme Court. Sir, what was that case? Was it one involving the question of the legality of martial law emanating from a soldier, high or low, by edict? There could be no such question, for there was no such law. Rhode Island had no constitution. She was living under a Colonial Charter. The Legislature of that State, acting in virtue of this charter, passed a statute which became the subject of *discussion*, but not of *decision*, in the Supreme Court of the United States. The case went off upon the ground, that it presented a conflict of two governments in the same State, the old government under the charter,

and Dorr's government under a Convention of the people. The only *decision* made by the Supreme Court was, that it had no power or jurisdiction to decide *which was the true government*. That the *political*, not the judicial authority of the United States, must determine that question; and that it had been decided by the political power in favor of the old colonial government. As to the discussion of the bar and bench, touching the *character* or *legality* of the act of the Legislature, different views were entertained, both as to what the law was, and its conformity to the Constitution. Taney, giving the opinion of the majority of the Court, intimates that it was within the power of the Legislature to pass an act declaring martial law; at least, that if the Legislature passed an act to that effect, there was no authority in the Supreme Court to pronounce it null and void. It had been sustained by all the Courts of Rhode Island.

Judge Woodbury, in the ablest review of the subject of the military power of this Government which has ever emanated from the Bench, denied that the act of the Legislature did establish martial law, or that such was its purpose. On the contrary, he viewed it as nothing more than the adoption by that body of the general provisions of the code military of the United States, generally known as the Rules and Articles for the Government of the Land Forces of the United States, which, at various times in our history, has been, in the main, adopted by the several States for the regulation of their militia. But, he adds, that if indeed the Legislature of Rhode Island *had* attempted to establish martial law within the limits of that State, it would be the duty of the United States Supreme Court to pronounce the act null and void, because against the Constitution, and wholly inconsistent with the nature of our American institutions!

I unhesitatingly affirm, that no judicial tribunal in the United States has ever sanctioned the legality or constitutionality of martial law decreed by the military power; and it will be a dark day for liberty if it shall ever be done.

I regret to find any supporter on this floor of martial law, resting upon the ukase of a soldier, or the fiat of Executive power. It was said by the gentleman from Clinton (Judge Birch), that Jefferson justified the declaration of martial law at New Orleans, by General Wilkinson, under which, Bollmand and Swartwout were arrested and imprisoned. That is a mistake. Mr. Jefferson never did justify

martial law. On the contrary, knowing it to be illegal, in order to cover the transaction, and retain the political offenders in custody, he at once asked Congress to suspend the privilege of the writ of habeas corpus. The Senate acted as he desired, but the House of Representatives voted down the measure by an overwhelming majority.

MR. BIRCH. This is what I said: I said that Jefferson either justified or excused it, and I stand on that assertion. I am familiar with the history to which the gentleman refers, and I am alike familiar, and I suppose him to be, with Jefferson's correspondence, in which he excuses or justifies the action of Jackson at New Orleans.

MR. WRIGHT. I understood the gentleman as quoting Jefferson as authority to *justify* martial law decreed by military power. There is a wide difference between the justification of an act, and the excuse of it under extenuating circumstances. To justify, is to make lawful; to excuse, is to forgive, and necessarily implies a wrong. If I had been a member of Congress when it was proposed, in 1842, to remit the fine Jackson paid to Judge Hall, I should have voted for refunding money, but no human power could make me justify his acts. He had done a great wrong, under patriotic impulses, and *he had atoned for it, by yielding to the judgment of the Court, whose dignity and constitutional supremacy he had invaded.*

Ballman and Swartwout were taken by habeas corpus, before the United States Court, and released by the judgment of that tribunal—John Marshall presiding, on the distinct ground, that their arrest *under martial law by order of Wilkinson was unlawful and unconstitutional.* It affirmed the doctrine, that, under the Constitution, Congress only could deprive a citizen of the privilege of the great writ of habeas corpus.

In Louallier's case, arrested and court-martialed by Jackson for violating the martial law, he as a soldier had established—the military court appointed by Jackson, officers of the army, discharged him, on the ground, that martial law could not legally clothe them with the power to try a citizen. The same point was decided by the District Court of the United States, sitting in Louisiana—and the principle was affirmed by the highest judicial tribunal of that State. The same doctrine was announced by Chief Justice Taney, in the Merryman case—so that in every case in which the question has been raised in America, the

decisions without exception have denounced the validity of martial law. In South Carolina, forty years ago, the Supreme Court of that State condemned with emphasis martial law as incompatible with constitutional liberty.

It has been said by the gentleman from Clinton (Judge Birch), and perhaps by my colleague (Mr. Hitchcock), that Madison justified the action of Jackson in declaring martial law at New Orleans. This is a strange statement. Have neither of the gentlemen ever read the rebuke given by Madison to Jackson on that occasion? So soon as the President heard by report of the imprisonment of Hall, and the arrest of Louallier, the former a Judge of the United States, and the latter a member of the Legislature, he caused a letter to be written to Jackson, the most pungent, perhaps, ever issued under his authority, expressing in emphatic terms the astonishment of the President, that such information should ever reach him, touching the conduct of any General in the service of the Government. Madison, like many other good men, from a variety of considerations, the lustre shed upon our arms by the victory, the purity of motive, and the patriotic purpose of Jackson in all he did, pardoned—excused him—but he never gave the weight of his great name, in sanction of martial law decreed by a soldier, as valid, under the Constitution.

An attempt, sir, has been made on this floor to find a sanction of some sort for the martial law now over us, by reference to the act of Congress in 1842, refunding to Jackson the amount of the fine (\$1,000) he paid in 1815, assessed by Judge Hall, for contempt. The impression sought to be made here is, that Congress justified the legality of martial law, declared by Jackson at New Orleans. Congress refunded the money paid; but so far from endorsing the principle of martial law, thus established—twenty-seven years before—they took special care to do no such thing; and, hence, I am the more astonished at the statements of my colleague (Mr. Hitchcock), who is painstaking and industrious, and who justly enjoys the reputation of accuracy, presented in a way to give color to the idea, that Congress in that act affirmed his right to declare martial law.

MR. HITCHCOCK. I beg leave to ask a question, a question of fact—whether the gentleman denies the fact that the bill was introduced and passed in Congress as I stated it? If he does, I refer him to the 14th Vol. Benton's Abridgment, wherein it is distinctly stated that the

friends of the bill refused to have its title changed because they wished it to appear upon its face that the bill was passed, not for the purpose of remunerating General Jackson, but for the purpose of exonerating him from all blame in the declaration of martial law.

Mr. WRIGHT. I do not question the accuracy of your statement so far as you have made it; but my objection is that your statement does not give the history of the transaction, and leaves an erroneous impression in regard to the action of Congress. We know that Congress did not, and could not be induced to sanction his right to declare martial law. While they were perfectly willing to return the money from gratitude for distinguished service, and from a just appreciation of the pure and patriotic motives which governed him, they were not ready to sanction a principle subversive of the liberties of the people. Upon the very introduction of the bill, the friends of Jackson were told that the money was nothing, but every caution was necessary in their action to avoid a fatal precedent; and, to guard their action, the bill was referred to a committee in both Houses.

Mr. HITCHCOCK. I wish to ask the gentleman again, whether my statement of fact is incorrect; because, if denied, I can convince him to the contrary, and will do so at his earliest convenience.

Mr. WRIGHT. I do not doubt that you state the title of the bill correctly; but your error lies in the inferential statement and argument, that Congress affirmed and justified the declaration of martial law.

Mr. HITCHCOCK. I do not wish to interrupt the gentleman, but I desire to call to his attention the historical facts. I reaffirm my statement that the bill in question was introduced with the title—"To indemnify Major General Jackson for damages sustained by him in the performance of his official duty"; that the committee reported favorably upon the bill, and Congress adopted it after full debate. It was proposed in the Senate to amend the title, so as to give General Jackson the money simply as an indemnification by way of reward for his services; but his friends refused all such propositions. They would not, and did not, consent that the bill should pass with a different title, because, as I said, they did not want him paid for services except upon the ground mentioned in the title of the bill, by a vote of 28 to 20 in the Senate, as I stated in my speech.

Mr. WRIGHT. Again I say, I do not dispute that you have made a literal transcript of the title of the bill; but you have never given the bill itself. Nor do I dispute that the friends of Jackson refused to put the bill upon the ground of receiving a thousand dollars for services rendered, and preferred the other title. The bill itself contains nothing upon the subject of martial law. No resolution was introduced in either House by the friends of Jackson, asking Congress to declare the validity of martial law, because they knew upon the direct issue the proposition could pass neither body. The whole effort is, by specious and partial statements, to deduce an inferential sanction to a proposition which a full and complete history would refute. While the gentleman endeavors to create the impression that the Congress of 1842 thought martial law in harmony with the Constitution, he has not ventured to say so himself. I ask him whether he, as a lawyer and jurist, will say that martial law, established by military edict, is justifiable.

Mr. HITCHCOCK. In the ordinary sense, no; in the extraordinary sense, yes.

Mr. WRIGHT. Well, sir, that passes my comprehension. I know of no extraordinary sense in which a thing can be justifiable, which is condemned by all ordinary sense. But, sir, the gentleman says the bill was introduced with the title that constitutes the staple of this preciously specious argument, and referred to a committee, which reported favorably upon it, and in that form it passed. Favorably! favorable to what? favorable to martial law, or favorable to the refunding of the money? Does not the gentleman remember the character of the report? If he does not, let me refresh his memory. Here is the report of the committee, the chairman of which was Senator Pearee of Maryland, which I will read:

"Your committee do not think that the military commander has any rights or duties paramount to the Constitution, from which he derives his commission. If such officers do possess powers above the Constitution and the law of the land, of the extent and application of which they, and they alone, may judge; and if the Constitution and law can not protect the citizen against the exercise of such extraordinary, undefined and undefinable powers,—then is our frame of government a solemn mockery, then are our bills and declarations of rights idle and unmeaning forms, and the boasted liberty of an American citizen is but an empty sound.

"It would be still more monstrous if, besides suspending the *habeas corpus* and detaining a citizen, it should be claimed to try and execute him by martial law, which is not tolerated in England, nor in any country except where despotism reigns.

"This doctrine of *necessity*, which at one time is said to abrogate the Constitution and all law, and at another to justify the invasion of a part of freemen's privileges that the rest may be preserved, has long been known as the *tyrant's plea*. It is not tolerated in England, no matter what may be the distemper of the times; and while it is palpably incompatible with the principles of American freedom, it is also directly met and expressly denied by constitutional provisions.

"The country may, in consideration of great services, and upon atonement made, excuse the individual who has violated these principles; but whenever they yield submissively to the invasion of these rights—*whenever they are prepared to admit the tyrant's plea—they are fit only to be the tyrant's slaves.*"

Mr. President, that is the mode in which the Congress of 1842 sanctioned and justified the right of a military commander to declare martial law. My colleague says martial law was discussed on the passage of the bill, with its magical title, and after full debate it passed, with the title appended. True; but how discussed and by whom? Martial law was discussed and denounced by the discussion. Out of the whole body of Congress, including both Houses, not five Senators or Representatives ventured to vindicate the right. The report in the other House took similar ground—in favor of refunding the money, but against martial law. Chas. J. Ingersoll, then a member of the lower House, was one of the few who rose in justification of the right of the General to declare martial law. He is the same gentleman who was afterwards crucified by Webster. Dissatisfied with the action of Congress because it did not justify General Jackson, he subsequently wrote a pamphlet to supply the vindication which Congress refused to make. It is an elaborate essay, in which he assails the Bench of England and America as unreliable enunciators of constitutional doctrine upon the subject of martial law in both countries. To construe the action of Congress by the ambiguous *title* of a bill into a justification by them of martial law, in the face of their clear and solemn action to the contrary, would falsify history.

We started, sir, in the Declaration of Independence, with a denunciation of martial law, and, until the unhappy inauguration of the present Administration, in the whole course of our history no department of our Government—executive, legislative, or judicial—has ever given its sanction to the principle—

The hammer of the President fell, the hour having expired, when Mr Wright resumed his seat, expressing the hope that on another occasion he might find an opportunity to continue his reply.

Mr. TINDALL said he should vote for the motion to strike out the provision in regard to drafting.

Mr. McFERRAN. I deem this provision, which it is proposed to strike out, important. I hope the Convention will not refuse to give the Governor the power to draft, if it shall be found necessary in order to maintain the Government. It is a matter of the first importance and of the greatest propriety that the Governor should have this power to draft. What is the use of making our Government a plaything in the hands of those who inaugurated this rebellion?

Mr. WOOLFOLK. Is the gentleman willing to draft secessionists and put arms in their hands?

Mr. McFERRAN. I hold that if our people refuse to do their duty, they should be compelled to do it; and if the Governor is of opinion that drafting will be necessary, I am willing to give him the authority to draft. I do not expect he will resort to drafting unless it is necessary; and if it is necessary, we shall have no right to know secessionists from Union men. I therefore move the rejection of the amendment.

Mr. FOSTER. There seems to be a difference of opinion in regard to striking out this provision to draft. I look at it in this light: that if we can not get men to enroll in the service voluntarily, it is utterly idle to talk of forcing them to fight against their will. My opinion is, if you want to trammel the action of the people, you can best do it by refusing to adopt this amendment. The people of this State claim to be a loyal people; and I believe they will come out and defend themselves, their wives and children, from Jackson's desperadoes, if an opportunity to do so is offered them. I hope we shall never have to resort to the drafting of secessionists. If the Union men will not take up arms and defend themselves, then I say let the secessionists rise up and drive

them out. God save me from all Union men who are willing to keep still and let the contemptible scoundrels under Price and Jackson rise up and shoot them down like dogs! I do not desire to assist such men. I don't want this resolution to pass, because I don't want the American arms disgraced with drafted secessionists and cowardly Union men. We have got the material in Missouri,

and could have brought these troubles to a close long since, if the Government had only placed arms in the hands of the Union men. Therefore I hope you will not bring dishonor upon our arms by adopting this amendment.

The vote on the amendment was then taken, but, a quorum not being present, the Convention adjourned.

SEVENTH DAY.

THURSDAY, October 17, 1861.

Met at 9 A. M.

The Military Bill was taken up.

The amendment to strike out the words "or draft if necessary," in the third section, was considered.

Mr. ALLEN said, under ordinary circumstances he believed that the bill should contain that provision; but under the present extraordinary condition of affairs, he was satisfied if the Governor should attempt to draft citizens of this State it would have a bad effect. In addition to this, he was satisfied there was a sufficient number of citizens who would volunteer under the Governor's call, provided they could have the assurance of being armed and equipped.

Mr. LONG said, in explanation of his vote, under ordinary circumstances he was in favor of the policy of drafting, but at present he doubted its efficacy.

Mr. STEWART said he knew the Union sentiment of this State was big enough and earnest enough to volunteer to protect the Constitution of the United States and of this State. He was in the military line himself, and he expected to kill out this heresy of secession. He believed the best way to do it was to put guns in the hands of Union men, and let them cooperate with the General Government. He did not want to have any drafted men under him; they could not be depended upon.

The amendment was then adopted—ayes 32, noes 13.

Mr. ORR moved to strike out sections 15 and 16, and insert a provision that each company shall be allowed to elect its own officers. He

presumed the Governor might make good selections, yet at the same time he might pick out drunkards and incompetent men; he was therefore in favor of allowing each regiment to elect its own officers.

Mr. HITCHCOCK said experience had shown that the plan proposed by the gentleman was not a good one. If the gentleman's objection had any force, it was to the effect that the Governor might select unacceptable officers. He apprehended there was no force in the objection. There was more probability that the Governor would appoint acceptable men than that he would not. This matter had been fully tested at Washington, and it was a fact that the officers who were first chosen by the men were being sifted out, and officers who have been selected appointed in their places. The reason for this was, that the officers selected were more competent. When men select officers, they generally select those who are incompetent for the particular duties of military life; because those qualifications which recommend a man politically or socially, and render him popular with the masses, are by no means the proper qualifications for a military officer.

Mr. STEWART agreed with the gentleman. They might have drunkards and fools placed in command where the men were allowed to make their own choice. He believed with Bonaparte, that a mistake in war was worse than a crime. He thought drunkards and fools had been placed in responsible positions which they had no right to hold; and he was for cleaning them out. He would never serve unless he could have a competent man as a commander—a man who had always stood under the old flag.

He was in favor of those men who fight for liberty; but d—n secession anyhow.

Mr. WELCH said the 15th section, proposed to be stricken out, was the only section which provided for the offices of Major General and Brigadier General. Did the gentleman from Greene propose to have them elected? and if so, how?

Mr. ORR said he supposed it would be the duty of the Governor to collect all the forces together, and then they could elect their own officers.

Mr. GANTT said one blow had been stricken at the efficiency of the bill, and if this amendment was passed there would be nothing left for them but to bury it decently. His colleague (Mr. Hitchcock) had spoken truly. Those regiments which enlisted for three months, and were now in for the war, had sought the first thing to get rid of the officers whom they elected. The result of allowing men to elect their officers was to endanger the efficiency and discipline of the soldier.

Mr. SMITH of Linn offered an amendment to the fifteenth section, authorizing the companies of the regiments to elect their Colonel, Lieutenant Colonel and Major, and allowing the Governor to appoint the Major General and Brigadier General. He was in favor of allowing the men to select the three officers named. As a general thing, he thought their selections had been as satisfactory as the appointments.

The amendment was offered as a substitute for Mr. ORR's amendment, and was rejected.

Mr. ORR's amendment was also rejected.

Mr. PHILLIPS moved to amend the fourth section by inserting the word "lawful," so as to have the provision read "will well and truly execute and obey all lawful orders." Adopted.

Mr. ORR moved the previous question.

Objection was made.

Mr. ORR said he did not want to be discourteous, but he was himself cut off yesterday by such a motion. Upon solicitation, however, he withdrew the motion.

The bill was then considered by sections.

Mr. WELCH moved to strike out the second section. Lost.

Mr. TINDALL offered an amendment to the fifth section, "that any battalion or regiment mustered into the service of the State may, at their option, at any time be mustered into the service of the United States." Adopted.

Mr. TINDALL also offered an amendment to section 31, which is as follows:

"And it shall be the duty of the Commander in Chief to authorize some member of the staff department, or some other agent whom he may appoint for the purpose, to proceed to such places in the State as may be necessary, and examine into the expenses incurred in the preliminary assembling and organization of companies, the procurement of arms, the furnishing of supplies, and the necessary expenses incurred in and about the organization of troops under the Governor's proclamation of the 24th of August last. And said agent or officer shall adjust such claims as may be presented to him, allowing such as he may deem just, and rejecting those found to be unjust. He shall report his proceedings to the Governor, who, if he approve the same, shall so certify to the proper officer, who shall cause the claims or accounts so allowed to be paid; but such preliminary examination shall be unnecessary in any case where the Governor shall have such personal knowledge in respect to any such claim as to justify him in certifying it to the Quartermaster General for payment, as hereinbefore provided."

Agreed to.

Mr. TINDALL also offered an amendment to section nine, defining the number of battalions which should compose a regiment, as follows:

"A battalion shall consist of not less than two nor more than five companies, and a regiment shall consist of not less than two nor more than three battalions. Each regiment shall have one Colonel, one Lieutenant Colonel, and three Majors."

Mr. TINDALL thought it was necessary to have more Majors in the volunteer service than in the regular service.

Mr. McFERRAN was of the same opinion. The description of service in this State was such that the adoption of this amendment would be of great benefit to it.

Mr. GANTT thought the amendment would only incur an additional expense. He took it for granted that every gentleman must see that the chances of their being able to to defray the expenses out of the State treasury were small; and if they expected to get the expense defrayed by the United States Government, he thought they had best allow the section to stand in its original shape.

Mr. FOSTER thought that the amendment was in conflict with many things which they had already agreed to.

Mr. TINDALL then withdrew his amendment.

Mr. BIRCH said he had been instructed by the Committee on Ways and Means to offer the following as an amendment to the bill :

AN ORDINANCE TO PROVIDE FOR THE DEFENSE
OF THE STATE.

Be it Ordained by the People of the State of Missouri, by their Delegates in Convention assembled, as follows :

That in order to facilitate the prompt and regular acknowledgment of such indebtedness as may accrue under the provisions of the ordinance "to provide for the organization and government of the Missouri State Militia," in cases where no money may be at the time available for the payment thereof, the Auditor of Public Accounts shall cause to be prepared warrants in the form hereafter prescribed, with such devices as he may think proper—such warrants to be of the denominations of five, ten, twenty, fifty, one hundred, and one thousand dollars, making the amount in dollars of each denomination equal, and the whole amount not to exceed one million of dollars—which warrants shall be signed by the Auditor, and countersigned by the Secretary of State, and shall be registered in the offices of the Auditor and Secretary of State. The following shall be the form of said warrants before being filled up :

THE STATE OF MISSOURI promises to pay to ———, or to his assignee, ——— dollars, and this Warrant shall be receivable in taxes due the State, and the Bank Stock owned by the State is pledged for its redemption if it shall not be paid in for taxes before the thirty-first day of December, eighteen hundred and sixty-two.

(COUNTERSIGNED,) ———, Auditor.

———, Secretary of State.

The warrants shall be delivered to such persons as the State may be indebted, whether for services, subsistence, forage, clothing, transportation, or other necessities furnished according to law to the troops in the service of the State; and in order that such acknowledgments may be made, the Auditor shall issue to any disbursing officer of the State Militia, upon the order of the Governor, such amounts as may be required for the public service—the warrants so issued having the blank for the name of the payee unfilled, and to be filled by the disbursing officer with the name of the person to whom the State is indebted, and to whom the warrant shall be issued. The officer receiving such warrants from the Auditor shall give his duplicate receipts therefor, one of which shall be filed in the office of the Auditor, and the other in the office of the Secretary of State; and

each disbursing officer shall be charged by the Auditor with the amount of warrants so issued to him, and shall settle with the Auditor therefor by producing legal and valid vouchers for the amount paid out by him, and return the residue to the Auditor—such settlement to be made at the end of each quarter of a year from the first day of January, in the year eighteen hundred and sixty-two. The disbursing officer paying out a warrant to a creditor of the State, shall indorse on such warrant so paid the statement that he issued it, and sign his name with his style of office, as thus—"This warrant issued by me, ———, *Quartermaster General*"—and shall be taken up or redeemed by said Quartermaster with money, whenever he may be furnished with it for that purpose.

The Treasurer shall receive from each Collector of taxes, upon settlement, such warrants as may have been paid in to him for taxes, and shall give him credit therefor as cash; and any Sheriff or other Collector of taxes who shall, directly or indirectly, be concerned in the purchase of such warrants at a discount upon their nominal amount shall be guilty of a misdemeanor, and upon conviction thereof shall be fined double the amount of the warrant so purchased.

At the end of each fiscal year, the Secretary of State, Auditor and Treasurer shall together compare the warrants that may have been paid into the treasury for taxes with the register in the offices of the Secretary and Auditor, and if it be found that such warrants are genuine and correspond with the register, and that there is no reason to believe that fraud has been practiced upon the State in relation to such warrants, they shall destroy those thus redeemed; but if they find that any fraud has been practiced, they shall preserve the warrants which may have been fraudulently issued, altered, counterfeited, or used, to be evidence in any judicial proceeding.

Mr. HALL of Buchanan said it was important that this should be carefully considered.

Mr. BRECKINRIDGE here stated that he was informed by the authorities that this Hall would be required for another purpose this evening, and that the Convention would be compelled to vacate it at an early hour.

Mr. GANTT thought they had better continue in session till three o'clock.

Mr. BROADHEAD said there was an important objection to this whole proposition [meaning the amendment of Mr. Birch]. If he un-

derstood the reading of the form of the certificates, they would be nothing more nor less than bills of credit, and they would override the Constitution of the United States, and would result similarly to the old "loan office" system, which the gentleman would probably remember.

Mr. BIRCH said it was in no sense a bill of credit—but a mere acknowledgment of indebtedness on the part of the State. He wished to remark that this was about the best thing the Committee of Ways and Means could do. They had had several long sessions, and this amendment had been reported by the unanimous concurrence of the committee, with the exception of the gentleman from Cooper, (Mr. Douglass,) who had some constitutional objections to it.

Mr. HENDERSON arose for the purpose of requesting the gentleman to withdraw his amendment. At present, the subject requiring the attention of this body was the passage of the Military Bill, and, at the same time, provide some means for subsisting and equipping an army, which this bill proposed to raise. He believed it was evident from the remarks made by the gentleman from St. Louis, (Mr. Broadhead,) that if the proposition of the gentleman from Clinton was adopted it would avail nothing. He thought, at any rate, it ought to be withdrawn for the present, as it was out of order. The gentleman could not, as the representative of a committee, offer an amendment.

The PRESIDENT decided the amendment out of order.

Mr. FOSTER offered an amendment to section nine, that a battalion shall consist of not less than two nor more than five companies, and shall be entitled to one Major; and a regiment shall consist of not less than eight companies. Rejected.

Mr. HALL of Randolph said he wished to offer an amendment as an additional section. He offered it for the reason that he apprehended the Convention could not retain a quorum long enough to give due consideration to the amendment which Mr. Birch would undoubtedly introduce in the shape of an ordinance. In the event that they found it impossible to act upon the subject, he proposed to offer an amendment which would leave the bill in a shape in which it could be used. The amendment would authorize the Governor to issue certificates to those to whom the State may become indebted, and for the redemption of which certificates the faith and credit of the State should be pledged,

and each certificate may be redeemed out of any funds the Governor may receive for such purpose, and the total issue of such certificates shall not exceed \$1,000,000.

Mr. GANTT thought it was not wise for them to encumber the bill with any amendments of this sort. He believed it should be brought up in a separate form.

The PRESIDENT decided the amendment out of order.

Mr. HOWELL said he should vote against the bill, because he thought it was a species of legislation into which it was not proper for them to enter.

Mr. ORR said he should vote against it because he did not know anything about the articles of war.

Mr. SOL. SMITH said he should ask to be excused from voting for the same reason. He remembered that the articles of war attached to Tom Harris' bill met with general condemnation, and he would not take the responsibility of voting for them until he had read them. At the same time he did not wish to raise any captious objection to the measure.

Mr. STEWART said he should vote for the bill because he *did* know what the articles of war were.

The bill was then passed—ayes 43, noes 8—Messrs. Howell, Orr, Sayre, Hudgens, Woolfolk, Smith of Linn, Pipkin, and Welch, voting in the negative.

Mr. How, from the Committee on Ways and Means, presented a report to the effect that the committee had been unable to agree upon any measure for postponing the collection of debts and taxes through the State; and asked to be discharged. They also asked to be discharged from the consideration of the resolution concerning the confiscation of property, believing that the act of Congress went far enough on that subject. They also asked to be discharged from the consideration of the petition from the various Railroad Companies, as they deemed it inexpedient to enter further into general legislation.

Mr. SOL. SMITH desired to offer an ordinance to prevent the sacrifice of real estate, but was decided out of order.

Mr. HOWELL moved that the report be re-committed with instructions to report an ordinance to postpone the collection of the State taxes for the present year.

Mr. GANTT moved to lay the motion on the table. Agreed to—ayes 33, noes 19.

The report of the Committee on Ways and Means was then agreed to.

Mr. BIRCH then introduced his amendment, previously offered to the Military Bill, in the shape of a separate ordinance.

Mr. PHILLIPS moved to lay it on the table, and have 100 copies printed.

Mr. GANTT. And made the order of the day when?

Mr. PHILLIPS. To-morrow at 10 o'clock.

Mr. BIRCH. I think we ought to get through to-night.

Mr. GANTT. I hope so, by all means.

Mr. STEWART. I want to know, inasmuch as we are all military men, and can't have this house, if we can't camp out for a time?

Mr. PHILLIPS' motion was then sustained—ayes 20, noes 19.

Mr. HENDERSON then reported the following bill:

AN ORDINANCE TO PROCURE MONEY FOR THE PURPOSE OF REPELLING INVASION AND SUPPRESSING REBELLION IN THIS STATE.

Be it ordained by the People of the State of Missouri, by their Delegates in Convention assembled, as follows:

1. For the purpose of arming and supporting the militia of the State, and with a view to protect the lives and property of its citizens, the Governor of the State is hereby authorized and empowered to issue bonds of the State to the amount of one million of dollars, which said bonds shall be dated on the day of their issue, and made payable ten years after the date thereof, bearing interest at the rate of seven per cent. per annum, and with interest coupons attached; the interest to be paid semi-annually, at the Bank of Commerce, in the city of New York, or at such other point as the Governor may deem expedient.

2. Said bonds shall be issued under the seal of the State, in sums of not less than two hundred nor more than five thousand dollars, shall be signed by the Governor, and countersigned by the Secretary of State. The interest coupons shall be signed by the Governor, and attested by the Auditor of Public Accounts, and shall be made payable on the first day of January and the first day of July of each year. The bonds aforesaid shall be made payable to the Auditor of Public Accounts, and by him numbered and registered in his office.

3. The Auditor shall indorse said bonds, and deliver the same to the Governor, who is hereby authorized and empowered to negotiate the

same, upon such terms as he may deem best for the interests of the people of the State. He may hypothecate them, or any amount of them, to individuals, or to the Government of the United States, for moneys advanced, and if the same can not be sold, nor hypothecated upon terms satisfactory to the Governor, he shall solicit the indorsement of said bonds by the proper authorities of the Federal Government previous to their negotiation.

4. All bonds issued under the provisions of this ordinance shall be denominated "UNION DEFENSE BONDS OF MISSOURI;" the faith and credit of the State are hereby pledged to the payment of the principal and interest thereof, and for the purpose of securing the prompt payment of the interest thereon, it is hereby ordained that the Treasurer of the State shall annually set aside the sum of seventy thousand dollars, out of any money coming into the treasury, on account of the revenues of the State.

5. In order to secure the ultimate redemption of the aforesaid bonds, it is hereby ordained and declared that the clerks of the County Courts of the several counties of the State, or the clerks of the tribunals then entrusted with similar duties under the laws of the State at the time, when they prepare a copy of the tax-books for the years 1870 and 1871, for the use of the collectors of their respective counties, levy, in addition to the tax which shall or may then be levied by the laws of the State, fifteen cents on the hundred dollars of taxable property for each of the years aforesaid, in their respective counties, which said tax shall be kept separate by the Collectors and the Auditor and Treasurer of the State, under the title or head of "*Union Defense Fund.*" During the years 1870-71 there shall be levied and collected upon all licenses granted, a tax of twenty-five per cent. in addition to the amounts prescribed to be collected thereon, by the Legislation of the State at that time, which said license tax shall in like manner be paid into the treasury, to the credit of said fund. And upon the maturity of the bonds, hereinbefore provided for, the Governor and Treasurer of the State shall cause the same to be redeemed out of the fund herein created.

6. The said tax shall be collected in the same manner as may at the time be provided for the collection of the revenue of the State: And the several officers charged with duties in respect to the collection of the general revenue, shall have the same powers and privi-

leges in respect to said special tax, and liable to the same penalties and forfeitures for failure to perform their respective duties.

7. The Governor of the State is hereby authorized to borrow, in addition to the amount named in the first section of this ordinance, and for the purposes aforesaid, the further sum of one million dollars, and to issue bonds to that amount in sums of not less than ten nor more than five hundred dollars, the same to be signed and attested as hereinbefore mentioned, and made payable to the State Auditor, and by him registered and indorsed.

8. Said bonds shall be issued without interest coupons, and shall be divided into four equal divisions of two hundred and fifty thousand dollars each: The first division to become due and payable at the office of the State Treasurer in Jefferson City, on the first day of February, 1863, and to bear interest at the rate of five per cent. per annum from the date thereof; the second division to become due and payable on the first day of February, 1864, at the office of the Treasurer as aforesaid, and to bear interest at the rate of six per cent. per annum from date till paid; the third division shall become due and payable as aforesaid on the first day of February, 1865, and shall bear interest at seven per cent. per annum from date till paid; the fourth division of said bonds shall be made payable as aforesaid on the first day of February, 1866, and shall bear interest at eight per cent. per annum. The first division of said bonds, with the interest thereon, shall be receivable for taxes and other demands due to the State, for the year 1862, or any subsequent year; the second division shall be receivable in like manner for the year 1863, and thereafter; the third division for the year 1864, and thereafter; and the fourth division for the year 1865, and thereafter.

9. The several Collectors of the State revenue shall receive the bonds so issued, together with the interest due thereon at the time of receiving the same, for all taxes and revenue due to the State, in the order named in the preceding section. The Collectors shall take receipts on the back of each bond, signed by the party presenting the same, for the amount of the bond and interest due thereon, up to the date of payment; and any Collector who shall be guilty of fraud in stating the amount due as aforesaid on any bond or the date of receipt thereof, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, nor

more than one thousand dollars, or by imprisonment in the county jail not less than three months, or by both such fine and imprisonment.

10. The Treasurer of the State shall receive from the several Collectors of the State revenue, for the several years herein specified, all bonds so paid by them, and shall credit them with the amount as shown by their receipts. The Treasurer shall keep a separate account of all such bonds so received into the Treasury, and shall report the same to each regular session of the General Assembly.

11. For the purpose of securing the ultimate redemption of the bonds provided to be issued by the 7th section of this ordinance, it is ordained that the stock owned by the State in the Bank of the State of Missouri, is hereby pledged.

The bill was laid on the table, ordered to be printed, and made the special order for to-morrow at ten o'clock A. M.

Mr. WELCH offered a resolution, that the ordinances changing the time of holding the election and abolishing certain offices, be published in the newspapers throughout the State, under the same rule providing for the publication of the laws passed at Jefferson City in July last.

Mr. BRECKINRIDGE moved to include all the ordinances passed by this Convention.

Mr. HOWELL moved to lay the motion on the table. Adopted.

Mr. WELCH's resolution was then agreed to.

Mr. McFERRAN, on leave, changed the title of the bill abolishing certain offices, so as to make it apparent from the title that it offered an amnesty to all those who chose to return to allegiance to the United States.

Mr. McFERRAN, from the Committee on Civil Offices, reported a bill repealing the bill establishing the *St. Louis County Legal Record and Advertiser*.

Mr. HALL of Buchanan moved to lay the bill on the table.

Mr. FOSTER asked for information, if this was the Niedner arrangement.

The PRESIDENT replied in the affirmative.

The vote was then taken.

Mr. PHILLIPS said, as one of the committee reporting this bill, he wished to say it did not meet with his concurrence. However much he might be opposed to the means by which this paper was brought into existence, however much he might condemn the practice of the Legislature in prostituting the machinery of

legislation to the low purpose of propagating treason; he did not think it came within the legitimate object of this Convention to enter into any such special legislation. It would involve us in interminable difficulties.

Mr. STEWART was opposed to any special legislation. He thought the object of this Convention was to settle great fundamental principles.

The motion to lay the bill on the table was then lost by the following vote :

AYES—Messrs. Douglass, Gravelly, Hall of Buchanan, Henderson, Hendricks, Howell, Jamison, Johnson, Noell, Pipkin, Pomeroy, Rowland, Sawyer, Shackelford of St. Louis, Stewart, Tindall, Welch, Woolfolk, Wright, Vanbuskirk, and Mr. President—22.

NOES—Messrs. Allen, Birch, Bogy, Breckinridge, Broadhead, Bridge, Bush, Eitzen, Foster, Gantt, Hitchcock, Holmes, How, Irwin, Isbell, Jackson, Leeper, Linton, Long, Marvin, Maupin, McCormack, McDowell, McFerran, Meyer, Orr, Smith of St. L., Turner, and Zimmerman—29.

EXCUSED—Mr. Smith of Linn.

Mr. GANTT then offered an amendment to the bill, striking out the second section, which, he remarked, contained the *virus* of the law. If the second section were stricken out, it would leave parties at liberty to advertise in any paper they chose, and thus destroy the monopoly.

Mr. STEWART moved to adjourn. Lost.

Mr. McFERRAN was advised the amendment was proper, and he therefore accepted it.

Mr. BIRCH said striking out the second section would abrogate the contract which the State had entered into as much as the repeal of the whole bill.

Mr. GANTT did not think so. There is an agreement in which he proposes to print all sales. Suppose he does; suppose he says, "I will print whatever anybody else does." But suppose the State declines to give him a monopoly, and leaves him standing exactly upon the same obligation which he does now?

Mr. WRIGHT said he did not think this a subject worthy the consideration of the Convention. He would suggest this difficulty: the bill abrogates a contract which was entered into by the Legislature for ten years with Niedner, who proposed to do a certain amount of business for a certain time. If the Legislature had power to make such a contract you cannot get rid of it—the hand of Omnipotence cannot

get rid of it. This body has no power to dissolve a contract which you and I have made, and it seems to me when you attempt to strike out the *virus* of the second section, as the gentleman from St. Louis termed it, you are aiming at an effort to break down a contract which the Legislature had power to make.

Mr. BRECKINRIDGE. I voted against the proposition to lay the bill on the table for two reasons. It occurred to me that if the ordinance were adopted, it needed amendment to give it efficiency; and my rule in such matters as that is, unless I think an ordinance is utterly unworthy a moment's consideration, to give the friends of it, as far as I can, an opportunity to perfect it, and then fairly consider it. I can not, however, vote for this ordinance. I think this bill, which has been made the subject of great discussion in the papers here and throughout the State, and which was passed by the last Legislature, altogether indefensible. I think it should never have been passed. I think it should, at the first proper moment, be repealed. But, sir, after a good deal of careful thought, it seems to me it is not proper for this Convention to undertake to enter the field of legislation any further than the actual condition of affairs, in reference to the vital objects for which it was called into being, requires.

One word as to the report of the committee. Notwithstanding the general distress in the State on account of the present condition of affairs—notwithstanding the difficulty of paying taxes and debts—I think this Convention ought not to interfere; not because they could not do good by interfering, but because it is not within the province of this Convention. Now, if we were to undertake to repeal one law because it is objectionable, it seems to me I could find half a dozen liable to the same charge—not so odious, perhaps, but very unjust; and I could make appeals to the Convention, and perhaps convince gentlemen they should be repealed. Let it be understood, however, that I vote against this, not because I think the Convention has no power to pass upon it, for I do; not because I do not consider this bill a stain upon the statute book, for I do; not because I do not desire to see it repealed, for I do—but because I think, if we adopt this ordinance, we change the rule adopted by this Convention not to enter into special legislation, and in so doing we should be compelled to remain here a long time in legislating upon matters not properly within our province.

Mr. BROADHEAD. I consented reluctantly to the report of this proposition, because I had not had an opportunity to examine it. It was not submitted to the committee for consideration; but when it was presented to me, a few moments ago, as a member of the committee, I consented that it might be reported. Having been brought up so suddenly for the consideration of the Convention, I have only been able to give the law a very hasty examination, and from that examination I doubt whether we have the authority to pass the ordinance, and I can not well see that the amendment remedies the difficulty. The question is whether the act proposed to be abrogated, in addition to being a law, is not also a contract made between the State of Missouri and an individual; if so, we have no power to annul that contract. I know it is an infamous law, and if we are to go into the matter of revising and correcting all the bad laws passed by that most unscrupulous and treasonable Legislature, I should like to see them all blotted from the statute book; but if such action would contravene the provisions of the Constitution of the United States, then we have no power to repeal it. The subject requires a more careful consideration than I have been able to give it.

Mr. FOSTER. In casting my vote, I desire to say this: It is strikingly strange to me to have gentlemen get up on this floor, with whom I have been voting heretofore to abrogate laws passed for the express purpose of taking the State out of the Union, passed for the purpose of promulgating treason through this land. I say it is strikingly strange to me to hear those same gentlemen object to the repeal of the law which my friend has truly designated as a stain upon the statute book—a law that was brought into existence by that same contemptible know-nothing Legislature last spring. The Legislature had no right whatever to make any obligation to support a man whose sole object was to spit out his poisonous venom and treasonable language broadcast over the State. And yet men declare they have conscientious scruples about meddling with any such detestable imposition. Now when they attempt to declare that the Legislature had power to pass such a law and make such a contract, I claim that we are a body with more power, and that we have the right to repeal this just as much as we had a right to repeal other laws. I would most cheerfully, and with as clear a conscience as any man coming from North Missouri can have, wipe out all those outrageous

measures; and I think St. Louis should be favored in this respect. When a man publishes treason in the county of St. Louis, and sends it broadcast through the State, I desire to wipe him out; and I want to meet the traitor, individually or collectively, in St. Louis or wherever he may be, and visit upon him that condign punishment which he so richly deserves. I have no hesitancy in voting to wipe out this paper which has been publishing treason. I desire to have the paper extinguished, and not to impose upon the loyal citizens of St. Louis the burden of a measure which compels them to support treason, and to support a traitor to his country and to his God.

Mr. GANTT. It is a mistake which I think is excusable, on reading the preamble called the contract, to say that it is made the condition of that proposal that this man shall have the monopoly of the legal publications of this county. I would like any one who assumes this ground to take this preamble and see what obligations it imposes on the State. Whatever these obligations are, we leave them alone. If such obligations are imposed on the State, let Niedner pursue the State and get redress; but when he imposes on third persons the necessity of giving his sheet alone all these publications, I hold we have the perfect right to repeal such a provision. Now I want to destroy this monopoly which is nowhere hinted at in the proposal; and in the acceptance of the proposal there is no stipulation that he shall have a monopoly. I do not intend to vote in this Convention for any measure which will impair the obligation of a contract, if I know it; and for that reason I should have voted against the ordinance which my friend from St. Louis introduced respecting deeds of trust. We have no power to do so. The United States Court has decided that no such power exists on the part of the Legislature, and this Convention is no more competent than the Legislature to contravene the principles of the Constitution of the United States; and nothing of the kind is intended here. The proposal which Niedner makes is accepted; but when it comes to imposing upon the citizens of St. Louis, by compelling them to publish sales in his paper, it is no part of the contract. It is not so declared; it stands as an independent section; and I say repeal it.

Mr. HENDERSON. I have not had an opportunity of examining the legal questions presented by the two gentlemen who have preceded me, and therefore, so far as the objection

to this proposition is concerned, I cannot speak advisedly. I voted to lay the proposition on the table, not that I did not object to the law—not that I have not said a great deal against the law—not that I did not denounce it upon the floor of this Convention as an iniquity and an outrage, and as part and parcel of the great scheme adopted by the Legislature of Missouri to put the State out of the Union; I have not only denounced it as such, but shall continue to do so. But if we adopt this measure, it seems to me we ought to adopt a great many others of a local character which I could name. It is unjust and aggressive on the people of this county; but, so far as the object of the Legislature was concerned—that is, of putting the State beyond the power of the Federal Government—that has been fully checkmated. I apprehend that no paper can be published here which will accomplish the view contemplated by the Legislature. If such a thing could be done, I would run the risk of constitutionality, and vote for it.

Mr. MEYER. The people of St. Louis county demand the repeal of this ordinance, because it puts \$25,000 or \$30,000 in the hands of this publisher, and we are forced to publish our notices in other papers to get them before the public. If we repeal this section, it would enable the people to pay this money into the treasury of St. Louis county.

Mr. HENDERSON. I wish to ask the gentleman if the fees are any higher in this man's paper than any other.

Mr. GANTT. No; the idea is that this publication does not inform the public, and the people are subjected to the extra expense of publishing in other papers.

Mr. HENDERSON. I know the bill is an outrage upon the people of this county; but if we adopt this measure, the people elsewhere may call for the repeal of acts which operate unjustly upon them; and if we take up this special legislation, we may be compelled to remain here, as a legislative body, for ninety days, to consider acts of this kind. With this view, opposed as I am to the law, believing it to be an outrage, yet considering that the point made by Mr. Broadhead is a good one, I shall vote no.

Mr. HITCHCOCK. I find myself most reluctantly obliged, contrary to the impression I first had, to vote against this proposition. No one is more strongly impressed than I with the demerits of the law granting Mr. Niedner the exclusive publishing of notices of sale in this county. It was an outrage, and I have always

denounced it as such. It created a monopoly; it was passed for treasonable purposes, and it has faithfully served those purposes. There is nothing whatever to be said in defense of the act. But while we are urged to repeal this section, in the interest of the people of this county, it is in the interest of that people, and to avoid inflicting on them a greater evil, or the risk of one, that I am deterred from that vote. As a lawyer, I cannot but know that any measure which unsettles the title to property, causes a large amount of trouble in the end. I know that if this section were repealed, those who had legal advertising to do, would still, as now, be composed of two classes—the cautious, and the confident. The former, unwilling to risk the possibility of a mistake, or a decision against this action, would continue to advertise in this paper—just as at this time, in consequence of a doubt thrown upon the character of this as a newspaper, many persons advertise sales under deeds of trust in this paper because of this law, and also in one of the daily newspapers of the city because of the provisions usual in such deeds for “advertisement in some newspaper.” Such persons would still advertise in this paper, and our action as to them would fail of its purpose. I should have no such doubt, but I speak of probable results. Others, confident that the repeal was complete and effective, would not publish in this paper. Sales would be made on that theory, and the question be thus opened as to the validity of such sales and the title which passed under them. It is evident that an amount of litigation might thus be caused—wholly unjust, and which, as I think, could result only in sustaining the validity of such sales, but which would in the end be a heavier burden upon the parties interested—a very much heavier burden than is caused by the law as it now stands. For this reason, much as I regret to come to such a conclusion, I do not think it wise to take this action. The Legislature may hereafter repeal this section, without encountering the same risks; and it is better, in my opinion, that it be postponed, in the interest of the people themselves.

There are other considerations which have been mentioned. I do not agree that this section is part of the consideration of the contract with Neidner, nor that to repeal it is to violate the contract. The power, I have not a shadow of doubt, the Convention possesses; but I think the indirect result too serious, and must reluctantly vote “no.”

Mr. MEYER. I regard this bill as an outrage upon the people of St. Louis county, and I vote aye.

Mr. LONG. As several constitutional lawyers have declared this law to be an outrage, I shall therefore vote aye.

Mr. McCORMACK. As some constitutional lawyers have declared this to be unconstitutional, I vote no.

Mr. ORR. I learned a good idea the other day, from the gentleman from St. Louis —

Mr. WRIGHT. What is that?

Mr. ORR. If you will wait long enough you will find out—and it was this: A counsellor once went to Thomas Jefferson after some information, and Jefferson told him not to read any books at all. He said, "You are a man of sense, and should be governed by common sense." Now common sense dictates that such a law as this ought not to exist, and gentlemen of the bar—distinguished lawyers and judges—all differ, I am still left, where I first was, with common sense; and, guided by this, I shall vote in favor of the repeal of this bill. We are here to protect the institutions of the State, and one of those institutions is called the printing press. I shall vote that it be more liberally patronised than by giving one paper the publication of all these sales.

Mr. TURNER. Since my connection with this body I have voted to repeal every one of the laws passed at the last session of the Legislature for the purpose of carrying Missouri out of the Union. I have voted to depose the Governor, Lieutenant Governor, and the Secretary of State, and I did so because I was told we had the power to do so; and, as a matter of course, we could repeal every law obnoxious to the people. I regard this law as one of a series passed by the Legislature for the purpose of carrying Missouri out of the Union. I regard it as infamous outside of that attempt. It is an imposition upon the people of St. Louis which the Legislature had no right to make. I can not see how, if we had the power to depose a Governor and repeal every law passed for a special purpose, that we have no such power to repeal this law. I think, sir, some of the gentleman's constituents will not appreciate the difference. I vote aye.

The PRESIDENT. I feel disposed to follow

the example that some of the gentlemen have set me, and explain my vote. This bill under consideration is an old acquaintance of mine, and I do not regard it as a contract by any means. I voted against the passage of this bill at the proper place, Jefferson city. It is a mistake to suppose that this bill was offered for the first time at the last session of the Legislature. The gentleman offered it at several previous sessions. I regard it as a bill highly improper. I will not use the language I employed at Jefferson city in denouncing it; but it is sufficient for me to say that I did all in my power, as the gentleman who is present (Mr. Niedner) knows, to defeat the passage of that measure.

A VOICE. He was present at that time, wasn't he?

The PRESIDENT. Yes; and it was passed. But never, during my connection with this Convention, have I voted for the abrogation of any law except such as affected the relation of this State with the General Government; and I can not, at this late day, go into the repeal of local statutes, because, if you repeal this hardship, there are a number of others, corporation acts, all over the State, that ought to be abrogated. If we give our attention to this description of legislation, we will be kept here for twelve months. People in all parts of the State have been imposed upon by local legislation; and if we undertake to repeal these local acts, we shall have a very considerable job before us. Although there is scarcely any enactment more offensive to me than this, yet I am constrained to vote against its repeal for the reason I have given.

The vote was as follows:

AYES—Messrs. Allen, Eitzen, Gantt, Holmes, How, Isbell, Leeper, Linton, Long, Maupin, Meyer, Orr, Smith of St. Louis, Turner.

NOES—Messrs. Birch, Bogy, Breckinridge, Broadhead, Bridge, Bush, Gravelly, Hall of Buchanan, Henderson, Hendricks, Hitchcock, Howell, Jackson, Johnson, Marvin, McCormack, McDowell, McFerran, Noell, Pipkin, Pomeroy, Shackelford of St. L., Smith of L., Tindall, Wright, Vanbuskirk, Zimmermann, Mr. President.

The Convention then adjourned, for want of a quorum, to 10 o'clock to-morrow morning.

EIGHTH DAY.

FRIDAY, October 18, 1861.

Met at 10 o'clock A. M.

Prayer by Rev. Mr. McLAIN.

Mr. WELCH offered the following resolutions, which were adopted:

Resolved, That the President appoint a committee of three to contract with Messrs. George Knapp & Co. for the printing of five thousand copies of the debates and proceedings of the present called session of the State Convention, at rates not exceeding those heretofore agreed upon between the Convention and said George Knapp & Co. at its regular session in March last.

Resolved, That the account of George Knapp & Co. for printing five thousand copies of the proceedings and debates of the Convention be audited by said committee; and that the same be considered as printing for the Convention, and be paid for as other allowances of the Convention.

Resolved, That the said proceedings be distributed equally among the members of the Convention.

The President appointed Mr. Welch, of Johnson, and Messrs. Smith and Long, of St. Louis.

Mr. WELCH also offered the following, which was agreed to:

Resolved, That the Committee on Accounts be directed to audit and allow the accounts for stationery purchased for the use of the Convention, and also the claim for the rent of the hall occupied by the Convention, and that said claims for rent and stationery be paid as other claims and accounts of the Convention.

Mr. PIRKIN desired to be instructed in reference to auditing the accounts of members. He had audited them at five dollars per day and twelve cents per mile. There seemed to be an impression on the part of many that the recent bill passed by the Convention reducing salaries, applied to the members of the Convention, and that the mileage was more than twelve cents per mile. If there was to be any change, he wished to know it.

After a brief discussion on the law relating to the amount of mileage to which they were entitled, the Convention instructed the commit-

tee to audit all accounts at five dollars per day and twelve cents per mile.

Mr. BIRCH called up the bill offered by him yesterday, as chairman of the Committee on Ways and Means, stating that he had changed it in one or two particulars, so as to obviate the objections which gentlemen entertained as to its previous so-called unconstitutionality.

Mr. HENDERSON desired to have his bill read.

Mr. GANTT inquired whether the gentleman from Pike intended to substitute it for Mr. Birch's bill.

Mr. HENDERSON said he did not; he merely wished to have it taken up.

The President stated that Mr. Birch's bill was before the Convention.

Mr. HENDERSON. I am aware of that, and I desire it to have precedence because it is reported by a committee. What I desire is to add the first six sections of the bill I introduced to the bill offered by Mr. Birch, leaving, of course, that portion of the ordinance I introduced, from the seventh to the eleventh section, out entirely. The design I had in view in authorizing the Governor to issue a million of bonds in small amounts has, I think, been embraced in the ordinance introduced by the chairman of the Committee of Ways and Means (Mr. Birch). Hence, it will be entirely unnecessary to provide for the issue of a million of bonds as I provide, provided the ordinance introduced by the gentleman from Clinton, as chairman of the committee, shall receive the concurrence of the Convention. My idea—and it seems to be the same that operated on the minds of the committee—was to have something in the shape of an evidence of indebtedness to be issued to the disbursing officers under the military bill, and that could be used in payment of the debts due to the soldiers under that bill. That view was entertained by the committee. I must confess a difficulty presented itself to my mind in drafting any ordinance on this subject. That difficulty is this: There is a prohibition in the Constitution of the United States preventing any State from issuing bills of credit. Upon the first presentation of

the ordinance by the gentleman from Clinton, it struck me that that ordinance was within the constitutional prohibition. I have examined, however, the case which went up from Chariton county in this State, in 1830, and also a case in Kentucky, in 1837, and am inclined to think, after the examination of these cases, that the changes made by the gentleman from Clinton in this ordinance, this morning, making them transferable only by special assignment, when issuing them in payment of indebtedness, will remove any defects which I may have imagined existed in the original bill. I do not think evidence of indebtedness would be any constitutional prohibition unless it be clearly designed to serve as a medium of exchange. There are some objections to the ordinance as it now stands. I object to that portion of it which provides that these certificates shall be receivable by officers in payment of taxes the present year, or any given year. It may be that \$1,000,000 will absorb the taxes of Missouri for the next two years, and it may be advisable that a portion of the taxes shall be paid into the treasury in money. I make no objections to the gentleman's bill. I think, perhaps, the same objections exist to the fifth section of my ordinance that exists in his own. If his are denominated bills of credit, mine will be also; the intention is to use them to pay indebtedness. The gentleman intends it, and so do I, and both may by some be regarded as bills of credit. But as they now stand I do not think they come within the constitutional prohibition. The gentleman proposes only \$1,000,000 of these certificates shall be issued. Gentlemen are aware that \$1,000,000 will go but a little ways towards paying the indebtedness that will soon accrue in arming and equipping the troops of this State—that is, if any considerable number should be raised; and I apprehend, although the power of drafting will not be resorted to—and I am glad of it—that there is every probability that volunteers will rally to the standard of the State, and drive out the invaders from our soil; or, at least, more men can be procured than we can raise money for. It seems to me that a million of dollars is a small amount; and if there should be a constitutional objection to the ordinance—and it should be remembered that we have the Supreme Court of Missouri to act (for gentlemen would not agree with me in the propriety of turning them all out—because I am somewhat radical on this subject, I will admit)—I say it should be remembered that we

have left them to adjudicate upon the acts of this Convention; and that being the case, it is better to have some outside provisions upon which we can fall back.

The amendment of Mr. Henderson was agreed to.

Mr. HALL of Randolph proposed to add the remaining sections of Mr. Henderson's bill, from 7 to 11 inclusive, and to strike out that portion of the bill offered by Mr. Birch. He said, under the ordinance offered by the Committee of Ways and Means the whole revenue might be absorbed, but under the ordinance proposed by the gentleman from Pike there could be but \$250,000 of the bonds authorized or applied for any particular year, leaving a portion of the revenue to go into the State treasury in money. He thought great inconvenience and injury might result from having all the revenue paid in these certificates. That was the substantial reason which controlled him in offering this amendment. So far as the efficiency of both ordinances was concerned, he did not know any particular difference. His impression was that the means to carry out this war would have to be furnished by the General Government. He understood means had been so furnished to other States, and also, to some extent, in this State. We must rely on the Federal Government, for we are doing what it is the duty of the Federal Government to do; and he had no doubt the Federal Government would furnish the means to accomplish the object at which we aimed.

Mr. McFERRAN proposed that the remaining sections of Mr. Henderson's ordinance be added, but that Mr. Birch's be allowed to remain *in statu quo*.

Mr. BIRCH said he understood the amendment proposed by the gentleman from Randolph (Mr. Hall) was a substitute for the bill reported by the Committee on Ways and Means. He proposed to address himself briefly to that subject, and give the views which governed one member of the committee—and he believed a majority—in proposing the bill under consideration. We now had in the State \$200,000 in the care of a disbursing agent, and to whom all such warrants as proposed by his bill would be presented and liquidated. His ordinance proposed, mainly, that the men now fighting under our flag might be furnished all the necessary supplies. If the Government has not the money, he might have the means of furnishing these supplies by paying out these warrants; and these warrants may be

redeemed on Second street, out of the money provided by the Federal Government.

This recognition of the services of the men would be best done in the manner proposed by his bill. If the General Government continued to furnish money, as it is its constitutional duty to do, these would be the best warrants in the State; and so far as their being absorbed was concerned, he felt sure they would be regularly redeemed on Second street. He had had transactions at the Government office this morning, and was familiar with the mode which he proposed. It might be advantageous to add the last sections of the bill offered by the gentleman from Pike (Mr. Henderson); but to strike out the bill reported by the committee and substitute the gentleman's bill in its place would contemplate an utterly different arrangement, and our troops would have no warrant or recognition of their services whatever until the State could realize money on her bonds. He believed every gentleman would admit the State of Missouri could not go into competition with the United States on these bonds, and while he would not shrink from the task which they had undertaken—even if Missouri bonds should be reduced to ten cents on the dollar—yet he thought there was no necessity at present for taking a step which would lead to that result.

Mr. HALL of Randolph said he would accept the proposition of the gentleman from Davis, (Mr. McFerran,) and simply add the sections named. He could move to strike out afterwards.

Mr. McFerran's motion was lost.

The question then being on agreeing to Mr. Birch's bill as amended by the addition of the first six sections of Mr. Henderson's bill,

Mr. PHILLIPS asked if it would not be in order to offer the whole of the bill as presented by the gentleman from Pike (Mr. Henderson) as a substitute for the bill reported by the gentleman from Clinton.

A point of order was here raised and discussed at some length. Finally, the vote was taken on the passage of Mr. Birch's bill as amended by the addition of the first six sections of Mr. Henderson's bill, and the bill as amended passed—ayes 37, noes 14.

Mr. WOOLFOLK offered the following:

Be it Resolved by the People of Missouri in Convention assembled, as follows: That, as many of our loyal citizens have entered into the service of the State of Missouri for the purpose of repelling invasion, suppressing insurrection, and

enforcing the laws of the Union in this State, which duties the Constitution imposes upon the Federal Government; and believing that the citizen soldiery of the State—acquainted as they are with persons and localities—are more effective for suppressing the civil and social war in our midst, and restoring and preserving law and order, than troops from other States; and further believing that the militia system should be maintained, as many of our citizens will enter the service of the State who would be unable or unwilling to enlist as Federal soldiers; and whereas the financial condition of the State of Missouri renders it impracticable to provide for the arming, maintenance and pay of such volunteer militia,—we do therefore, in the name of the people of Missouri, petition the Government of the United States to provide for the maintenance and payment of such militia as have enlisted, or may hereafter enlist, in the service of the State during the existence of the present civil and social war in our midst.

Mr. BRECKINRIDGE moved to add the following:

Resolved, That the Governor be directed to proceed to Washington, to make known to the General Government the condition of the State, its military organization and finances, and to propose to that Government such measures as will enable the State to cooperate efficiently in the prosecution of the present war.

Mr. WOOLFOLK accepted the additional resolution, and they were both agreed to.

Mr. BIRCH offered the following:

AN ORDINANCE RESPECTING THE STATE REVENUE AND THE PAYMENT OF OFFICERS.

Be it ordained by the People of the State of Missouri in Convention assembled, That the several Collectors be allowed until the first day of March next to collect and pay in the State revenue; and that so long as the Banks of the State continue to maintain their present showing of ultimate solvency, their notes shall be received for State revenue and paid out for State salaries.

A motion was made to lay the bill on the table, and it was sustained by ayes 37, noes 13.

Mr. BRECKINRIDGE offered a resolution that when the Convention adjourns, it adjourn to the first Monday in April, 1862.

Mr. HOWELL moved to substitute a resolution to adjourn *sine die*. Lost—ayes 18, noes 33.

Mr. SOL. SMITH offered the following as a substitute:

"The existence of this Convention shall terminate on the day of the assembling of the Legislature to be elected in eighteen hundred and sixty-two, and in the interim shall be subject to be called together by the Governor if, in his opinion, the exigencies of the State demand it."

The substitute was agreed to, and the resolution adopted.

The Convention then adjourned to 3 P. M.

On re-assembling, Mr. BUSH offered a bill

requiring the Banks to resume specie payments.

Mr. HALL of Buchanan moved to take a recess of half an hour.

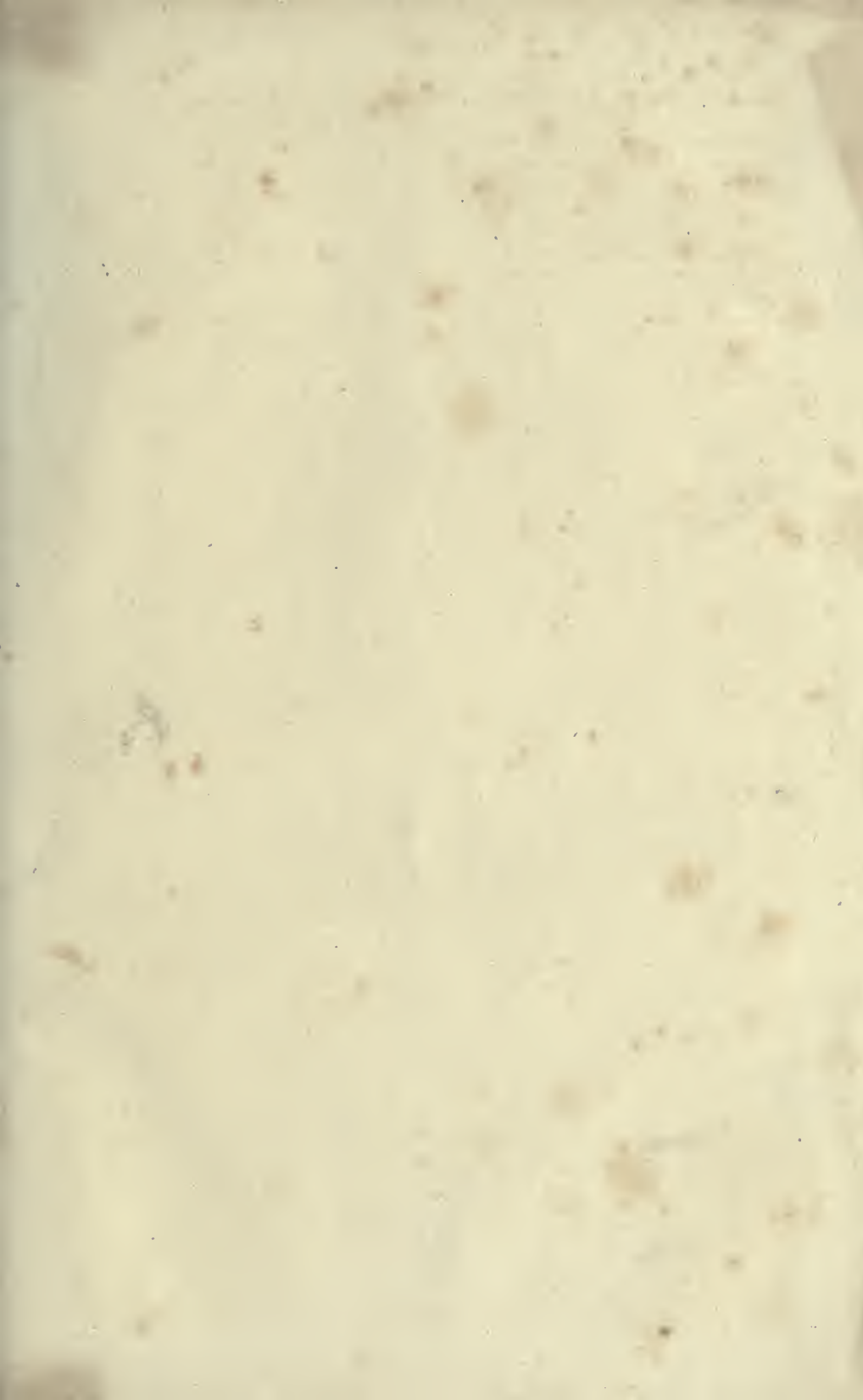
Motion sustained.

At the expiration of the recess,

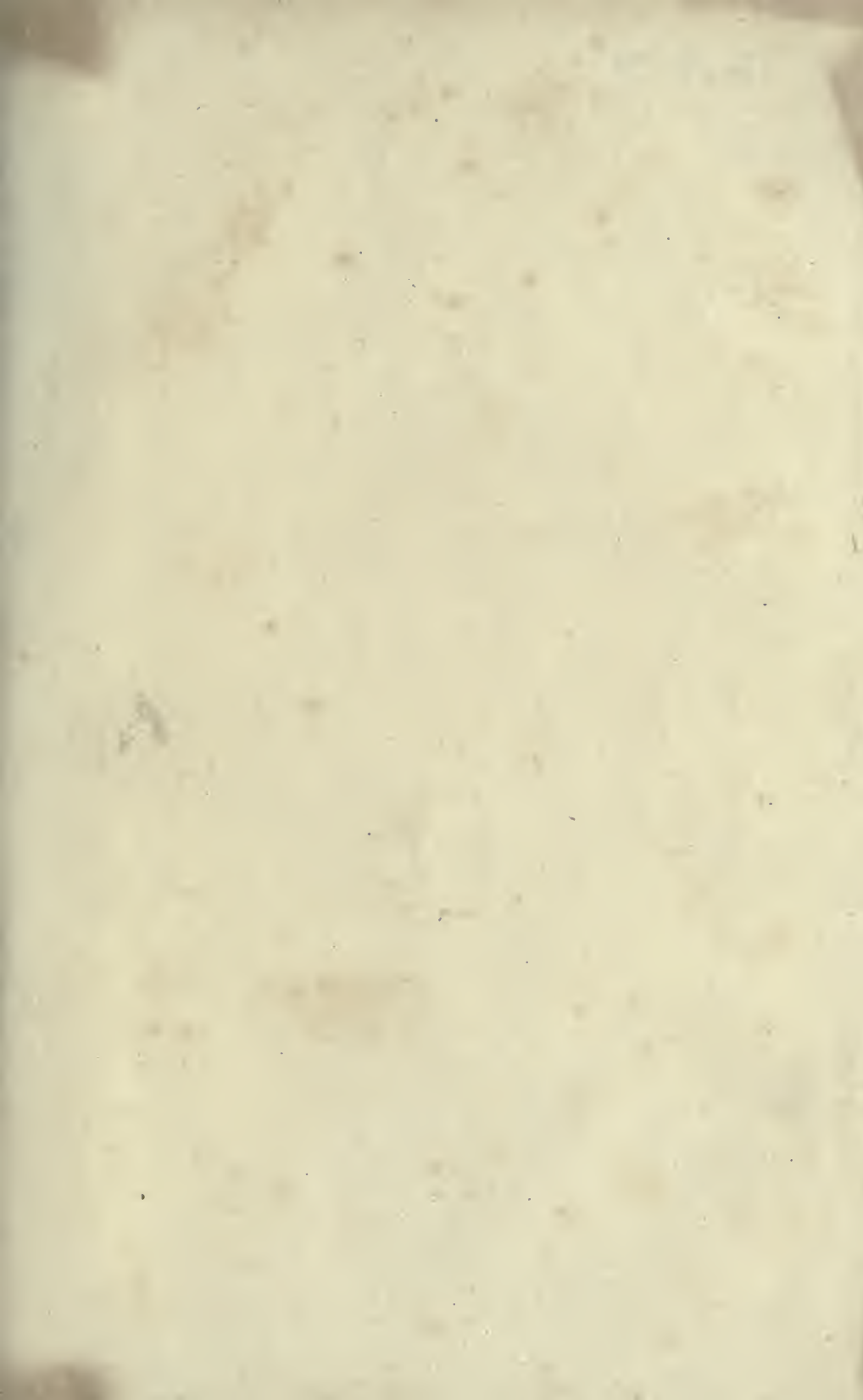
Mr. SOL. SMITH offered a bill allowing debtors two years to redeem their property after a sale under execution.

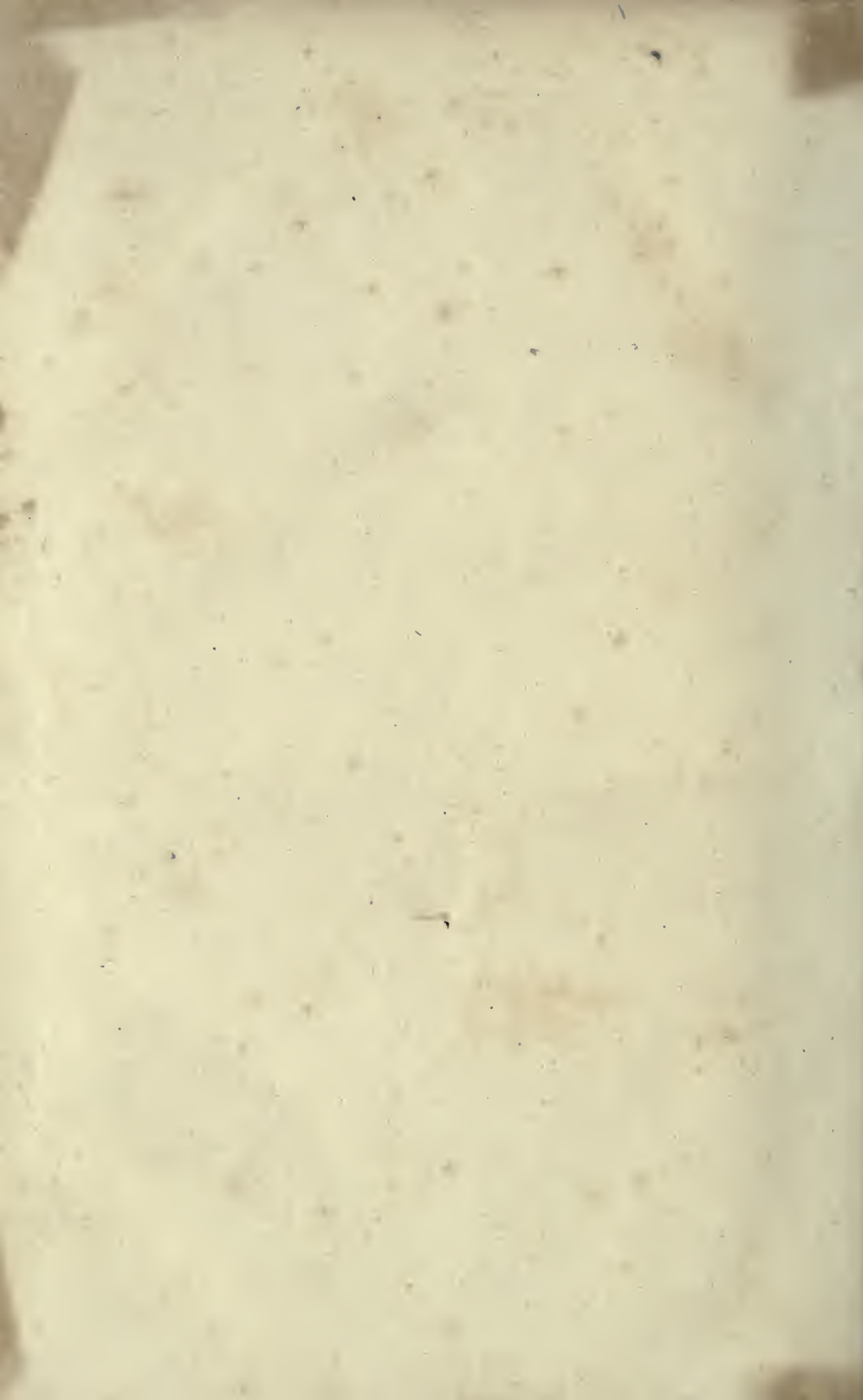
Mr. HALL of Buchanan moved to adjourn.

Motion sustained, and the Convention adjourned *sine die*.









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